

1-1 By: Hegar S.B. No. 5  
 1-2 (In the Senate - Filed June 11, 2013; June 11, 2013, read  
 1-3 first time and referred to Committee on Health and Human Services;  
 1-4 June 14, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 5, Nays 2; June 14, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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		X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 5 By: Taylor

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the regulation of abortion procedures, providers, and  
 1-22 facilities; providing penalties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. (a) The findings indicate that:

1-25 (1) substantial medical evidence recognizes that an  
 1-26 unborn child is capable of experiencing pain by not later than 20  
 1-27 weeks after fertilization;

1-28 (2) the state has a compelling state interest in  
 1-29 protecting the lives of unborn children from the stage at which  
 1-30 substantial medical evidence indicates that these children are  
 1-31 capable of feeling pain;

1-32 (3) the compelling state interest in protecting the  
 1-33 lives of unborn children from the stage at which substantial  
 1-34 medical evidence indicates that an unborn child is capable of  
 1-35 feeling pain is intended to be separate from and independent of the  
 1-36 compelling state interest in protecting the lives of unborn  
 1-37 children from the stage of viability, and neither state interest is  
 1-38 intended to replace the other; and

1-39 (4) restricting elective abortions at or later than 20  
 1-40 weeks post-fertilization, as provided by this Act, does not impose  
 1-41 an undue burden or a substantial obstacle on a woman's ability to  
 1-42 have an abortion because:

1-43 (A) the woman has adequate time to decide whether  
 1-44 to have an abortion in the first 20 weeks after fertilization; and

1-45 (B) this Act does not apply to abortions that are  
 1-46 necessary to avert the death or substantial and irreversible  
 1-47 physical impairment of a major bodily function of the pregnant  
 1-48 woman.

1-49 (b) The legislature intends that every application of this  
 1-50 statute to every individual woman shall be severable from each  
 1-51 other. In the unexpected event that the application of this statute  
 1-52 is found to impose an impermissible undue burden on any pregnant  
 1-53 woman or group of pregnant women, the application of the statute to  
 1-54 those women shall be severed from the remaining applications of the  
 1-55 statute that do not impose an undue burden, and those remaining  
 1-56 applications shall remain in force and unaffected, consistent with  
 1-57 Section 10 of this Act.

1-58 SECTION 2. Subchapter A, Chapter 171, Health and Safety  
 1-59 Code, is amended by adding Section 171.0031 to read as follows:

1-60 Sec. 171.0031. REQUIREMENTS OF PHYSICIAN; OFFENSE. (a) A

2-1 physician performing or inducing an abortion:

2-2 (1) must, on the date the abortion is performed, have  
 2-3 active admitting privileges at a hospital that:

2-4 (A) is located not further than 30 miles from the  
 2-5 location at which the abortion is performed or induced; and

2-6 (B) provides obstetrical or gynecological health  
 2-7 care services; and

2-8 (2) shall provide the pregnant woman with:

2-9 (A) a telephone number by which the pregnant  
 2-10 woman may reach the physician, or other health care personnel  
 2-11 employed by the physician or by the facility at which the abortion  
 2-12 was performed with access to the woman's relevant medical records,  
 2-13 24 hours a day to request assistance for any complications that  
 2-14 arise from the performance of the abortion or ask health-related  
 2-15 questions regarding the abortion; and

2-16 (B) the name and telephone number of the nearest  
 2-17 hospital to the home of the pregnant woman at which an emergency  
 2-18 arising from the abortion would be treated.

2-19 (b) A physician who violates Subsection (a) commits an  
 2-20 offense. An offense under this section is a Class A misdemeanor  
 2-21 punishable by a fine only, not to exceed \$4,000.

2-22 SECTION 3. Chapter 171, Health and Safety Code, is amended  
 2-23 by adding Subchapters C and D to read as follows:

2-24 SUBCHAPTER C. ABORTION PROHIBITED AT OR AFTER 20 WEEKS

2-25 POST-FERTILIZATION

2-26 Sec. 171.041. SHORT TITLE. This subchapter may be cited as  
 2-27 the Preborn Pain Act.

2-28 Sec. 171.042. DEFINITIONS. In this subchapter:

2-29 (1) "Post-fertilization age" means the age of the  
 2-30 unborn child as calculated from the fusion of a human spermatozoon  
 2-31 with a human ovum.

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

2-34 Sec. 171.043. DETERMINATION OF POST-FERTILIZATION AGE  
 2-35 REQUIRED. Except as otherwise provided by Section 171.046, a  
 2-36 physician may not perform or induce or attempt to perform or induce  
 2-37 an abortion without, prior to the procedure:

2-38 (1) making a determination of the probable  
 2-39 post-fertilization age of the unborn child; or

2-40 (2) possessing and relying on a determination of the  
 2-41 probable post-fertilization age of the unborn child made by another  
 2-42 physician.

2-43 Sec. 171.044. ABORTION OF UNBORN CHILD OF 20 OR MORE WEEKS  
 2-44 POST-FERTILIZATION AGE PROHIBITED. Except as otherwise provided by  
 2-45 Section 171.046, a person may not perform or induce or attempt to  
 2-46 perform or induce an abortion on a woman if it has been determined,  
 2-47 by the physician performing, inducing, or attempting to perform or  
 2-48 induce the abortion or by another physician on whose determination  
 2-49 that physician relies, that the probable post-fertilization age of  
 2-50 the unborn child is 20 or more weeks.

2-51 Sec. 171.045. METHOD OF ABORTION. (a) This section  
 2-52 applies only to an abortion authorized under Section 171.046(a)(1)  
 2-53 or (2) in which:

2-54 (1) the probable post-fertilization age of the unborn  
 2-55 child is 20 or more weeks; or

2-56 (2) the probable post-fertilization age of the unborn  
 2-57 child has not been determined but could reasonably be 20 or more  
 2-58 weeks.

2-59 (b) Except as otherwise provided by Section 171.046(a)(3),  
 2-60 a physician performing an abortion under Subsection (a) shall  
 2-61 terminate the pregnancy in the manner that, in the physician's  
 2-62 reasonable medical judgment, provides the best opportunity for the  
 2-63 unborn child to survive.

2-64 Sec. 171.046. EXCEPTIONS. (a) The prohibitions and  
 2-65 requirements under Sections 171.043, 171.044, and 171.045(b) do not  
 2-66 apply to an abortion performed if there exists a condition that, in  
 2-67 the physician's reasonable medical judgment, so complicates the  
 2-68 medical condition of the woman that, to avert the woman's death or a  
 2-69 serious risk of substantial and irreversible physical impairment of

3-1 a major bodily function, other than a psychological condition, it  
 3-2 necessitates, as applicable:

3-3 (1) the immediate abortion of her pregnancy without  
 3-4 the delay necessary to determine the probable post-fertilization  
 3-5 age of the unborn child;

3-6 (2) the abortion of her pregnancy even though the  
 3-7 post-fertilization age of the unborn child is 20 or more weeks; or

3-8 (3) the use of a method of abortion other than a method  
 3-9 described by Section 171.045(b).

3-10 (b) A physician may not take an action authorized under  
 3-11 Subsection (a) if the risk of death or a substantial and  
 3-12 irreversible physical impairment of a major bodily function arises  
 3-13 from a claim or diagnosis that the woman will engage in conduct that  
 3-14 may result in her death or in substantial and irreversible physical  
 3-15 impairment of a major bodily function.

3-16 (c) The prohibitions and requirements under Sections  
 3-17 171.043, 171.044, and 171.045(b) do not apply to an abortion  
 3-18 performed on an unborn child who has a severe fetal abnormality.

3-19 Sec. 171.047. PROTECTION OF PRIVACY IN COURT PROCEEDINGS.

3-20 (a) Except as otherwise provided by this section, in a civil or  
 3-21 criminal proceeding or action involving an act prohibited under  
 3-22 this subchapter, the identity of the woman on whom an abortion has  
 3-23 been performed or induced or attempted to be performed or induced is  
 3-24 not subject to public disclosure if the woman does not give consent  
 3-25 to disclosure.

3-26 (b) Unless the court makes a ruling under Subsection (c) to  
 3-27 allow disclosure of the woman's identity, the court shall issue  
 3-28 orders to the parties, witnesses, and counsel and shall direct the  
 3-29 sealing of the record and exclusion of individuals from courtrooms  
 3-30 or hearing rooms to the extent necessary to protect the woman's  
 3-31 identity from public disclosure.

3-32 (c) A court may order the disclosure of information that is  
 3-33 confidential under this section if:

3-34 (1) a motion is filed with the court requesting  
 3-35 release of the information and a hearing on that request;

3-36 (2) notice of the hearing is served on each interested  
 3-37 party; and

3-38 (3) the court determines after the hearing and an in  
 3-39 camera review that disclosure is essential to the administration of  
 3-40 justice and there is no reasonable alternative to disclosure.

3-41 Sec. 171.048. CONSTRUCTION OF SUBCHAPTER. (a) This  
 3-42 subchapter shall be construed, as a matter of state law, to be  
 3-43 enforceable up to but no further than the maximum possible extent  
 3-44 consistent with federal constitutional requirements, even if that  
 3-45 construction is not readily apparent, as such constructions are  
 3-46 authorized only to the extent necessary to save the subchapter from  
 3-47 judicial invalidation. Judicial reformation of statutory language  
 3-48 is explicitly authorized only to the extent necessary to save the  
 3-49 statutory provision from invalidity.

3-50 (b) If any court determines that a provision of this  
 3-51 subchapter is unconstitutionally vague, the court shall interpret  
 3-52 the provision, as a matter of state law, to avoid the vagueness  
 3-53 problem and shall enforce the provision to the maximum possible  
 3-54 extent. If a federal court finds any provision of this subchapter  
 3-55 or its application to any person, group of persons, or  
 3-56 circumstances to be unconstitutionally vague and declines to impose  
 3-57 the saving construction described by this subsection, the Supreme  
 3-58 Court of Texas shall provide an authoritative construction of the  
 3-59 objectionable statutory provisions that avoids the constitutional  
 3-60 problems while enforcing the statute's restrictions to the maximum  
 3-61 possible extent, and shall agree to answer any question certified  
 3-62 from a federal appellate court regarding the statute.

3-63 (c) A state executive or administrative official may not  
 3-64 decline to enforce this subchapter, or adopt a construction of this  
 3-65 subchapter in a way that narrows its applicability, based on the  
 3-66 official's own beliefs about what the state or federal constitution  
 3-67 requires, unless the official is enjoined by a state or federal  
 3-68 court from enforcing this subchapter.

3-69 (d) This subchapter may not be construed to authorize the

4-1 prosecution of or a cause of action to be brought against a woman on  
 4-2 whom an abortion is performed or induced or attempted to be  
 4-3 performed or induced in violation of this subchapter.

4-4 SUBCHAPTER D. ABORTION-INDUCING DRUGS

4-5 Sec. 171.061. DEFINITIONS. In this subchapter:

4-6 (1) "Abortion" means the act of using, administering,  
 4-7 prescribing, or otherwise providing an instrument, a drug, a  
 4-8 medicine, or any other substance, device, or means with the intent  
 4-9 to terminate a clinically diagnosable pregnancy of a woman and with  
 4-10 knowledge that the termination by those means will, with reasonable  
 4-11 likelihood, cause the death of the woman's unborn child. An act is  
 4-12 not an abortion if the act is done with the intent to:

4-13 (A) save the life or preserve the health of an  
 4-14 unborn child;

4-15 (B) remove a dead, unborn child whose death was  
 4-16 caused by spontaneous abortion;

4-17 (C) remove an ectopic pregnancy; or

4-18 (D) treat a maternal disease or illness for which  
 4-19 a prescribed drug, medicine, or other substance is indicated.

4-20 (2) "Abortion-inducing drug" means a drug, a medicine,  
 4-21 or any other substance, including a regimen of two or more drugs,  
 4-22 medicines, or substances, prescribed, dispensed, or administered  
 4-23 with the intent of terminating a clinically diagnosable pregnancy  
 4-24 of a woman and with knowledge that the termination will, with  
 4-25 reasonable likelihood, cause the death of the woman's unborn child.  
 4-26 The term includes off-label use of drugs, medicines, or other  
 4-27 substances known to have abortion-inducing properties that are  
 4-28 prescribed, dispensed, or administered with the intent of causing  
 4-29 an abortion, including the Mifeprex regimen. The term does not  
 4-30 include a drug, medicine, or other substance that may be known to  
 4-31 cause an abortion but is prescribed, dispensed, or administered for  
 4-32 other medical reasons.

4-33 (3) "Final printed label" or "FPL" means the  
 4-34 informational document approved by the United States Food and Drug  
 4-35 Administration for an abortion-inducing drug that:

4-36 (A) outlines the protocol authorized by that  
 4-37 agency and agreed to by the drug company applying for authorization  
 4-38 of the drug by that agency; and

4-39 (B) delineates how a drug is to be used according  
 4-40 to approval by that agency.

4-41 (4) "Gestational age" means the amount of time that  
 4-42 has elapsed since the first day of a woman's last menstrual period.

4-43 (5) "Medical abortion" means the administration or use  
 4-44 of an abortion-inducing drug to induce an abortion.

4-45 (6) "Mifeprex regimen," "RU-486 regimen," or "RU-486"  
 4-46 means the abortion-inducing drug regimen approved by the United  
 4-47 States Food and Drug Administration that consists of administering  
 4-48 mifepristone and misoprostol.

4-49 (7) "Physician" means an individual who is licensed to  
 4-50 practice medicine in this state, including a medical doctor and a  
 4-51 doctor of osteopathic medicine.

4-52 (8) "Pregnant" means the female reproductive  
 4-53 condition of having an unborn child in a woman's uterus.

4-54 (9) "Unborn child" means an offspring of human beings  
 4-55 from conception until birth.

4-56 Sec. 171.062. ENFORCEMENT BY TEXAS MEDICAL BOARD.  
 4-57 Notwithstanding Section 171.005, the Texas Medical Board shall  
 4-58 enforce this subchapter.

4-59 Sec. 171.063. DISTRIBUTION OF ABORTION-INDUCING DRUG.

4-60 (a) A person may not knowingly give, sell, dispense, administer,  
 4-61 provide, or prescribe an abortion-inducing drug to a pregnant woman  
 4-62 for the purpose of inducing an abortion in the pregnant woman or  
 4-63 enabling another person to induce an abortion in the pregnant woman  
 4-64 unless:

4-65 (1) the person who gives, sells, dispenses,  
 4-66 administers, provides, or prescribes the abortion-inducing drug is  
 4-67 a physician; and

4-68 (2) the provision, prescription, or administration of  
 4-69 the abortion-inducing drug satisfies the protocol tested and

5-1 authorized by the United States Food and Drug Administration as  
5-2 outlined in the final printed label of the abortion-inducing drug.

5-3 (b) Before the physician gives, sells, dispenses,  
5-4 administers, provides, or prescribes an abortion-inducing drug,  
5-5 the physician must examine the pregnant woman and document, in the  
5-6 woman's medical record, the gestational age and intrauterine  
5-7 location of the pregnancy.

5-8 (c) The physician who gives, sells, dispenses, administers,  
5-9 provides, or prescribes an abortion-inducing drug shall provide the  
5-10 pregnant woman with:

5-11 (1) a copy of the final printed label of that  
5-12 abortion-inducing drug; and

5-13 (2) a telephone number by which the pregnant woman may  
5-14 reach the physician, or other health care personnel employed by the  
5-15 physician or by the facility at which the abortion was performed  
5-16 with access to the woman's relevant medical records, 24 hours a day  
5-17 to request assistance for any complications that arise from the  
5-18 administration or use of the drug or ask health-related questions  
5-19 regarding the administration or use of the drug.

5-20 (d) The physician who gives, sells, dispenses, administers,  
5-21 provides, or prescribes the abortion-inducing drug, or the  
5-22 physician's agent, must schedule a follow-up visit for the woman to  
5-23 occur not more than 14 days after the administration or use of the  
5-24 drug. At the follow-up visit, the physician must:

5-25 (1) confirm that the pregnancy is completely  
5-26 terminated; and

5-27 (2) assess the degree of bleeding.

5-28 (e) The physician who gives, sells, dispenses, administers,  
5-29 provides, or prescribes the abortion-inducing drug, or the  
5-30 physician's agent, shall make a reasonable effort to ensure that  
5-31 the woman returns for the scheduled follow-up visit under  
5-32 Subsection (d). The physician or the physician's agent shall  
5-33 document a brief description of any effort made to comply with this  
5-34 subsection, including the date, time, and name of the person making  
5-35 the effort, in the woman's medical record.

5-36 (f) If a physician gives, sells, dispenses, administers,  
5-37 provides, or prescribes an abortion-inducing drug to a pregnant  
5-38 woman for the purpose of inducing an abortion as authorized by this  
5-39 section and the physician knows that the woman experiences a  
5-40 serious adverse event, as defined by the MedWatch Reporting System,  
5-41 during or after the administration or use of the drug, the physician  
5-42 shall report the event to the United States Food and Drug  
5-43 Administration through the MedWatch Reporting System not later than  
5-44 the third day after the date the physician learns that the event  
5-45 occurred.

5-46 Sec. 171.064. ADMINISTRATIVE PENALTY. (a) The Texas  
5-47 Medical Board may take disciplinary action under Chapter 164,  
5-48 Occupations Code, or assess an administrative penalty under  
5-49 Subchapter A, Chapter 165, Occupations Code, against a person who  
5-50 violates Section 171.063.

5-51 (b) A penalty may not be assessed under this section against  
5-52 a pregnant woman who receives a medical abortion.

5-53 SECTION 4. Subsection (a), Section 245.010, Health and  
5-54 Safety Code, is amended to read as follows:

5-55 (a) The rules must contain minimum standards to protect the  
5-56 health and safety of a patient of an abortion facility and must  
5-57 contain provisions requiring compliance with the requirements of  
5-58 Subchapter B, Chapter 171. On and after September 1, 2014, the  
5-59 minimum standards for an abortion facility must be equivalent to  
5-60 the minimum standards adopted under Section 243.010 for ambulatory  
5-61 surgical centers.

5-62 SECTION 5. Subsection (c), Section 245.011, Health and  
5-63 Safety Code, is amended to read as follows:

5-64 (c) The report must include:

5-65 (1) whether the abortion facility at which the  
5-66 abortion is performed is licensed under this chapter;

5-67 (2) the patient's year of birth, race, marital status,  
5-68 and state and county of residence;

5-69 (3) the type of abortion procedure;

- 6-1 (4) the date the abortion was performed;
- 6-2 (5) whether the patient survived the abortion, and if
- 6-3 the patient did not survive, the cause of death;
- 6-4 (6) the probable post-fertilization age of the unborn
- 6-5 child [~~period of gestation~~] based on the best medical judgment of
- 6-6 the attending physician at the time of the procedure;
- 6-7 (7) the date, if known, of the patient's last menstrual
- 6-8 cycle;
- 6-9 (8) the number of previous live births of the patient;
- 6-10 and
- 6-11 (9) the number of previous induced abortions of the
- 6-12 patient.
- 6-13 SECTION 6. Subsection (a), Section 164.052, Occupations
- 6-14 Code, is amended to read as follows:
- 6-15 (a) A physician or an applicant for a license to practice
- 6-16 medicine commits a prohibited practice if that person:
- 6-17 (1) submits to the board a false or misleading
- 6-18 statement, document, or certificate in an application for a
- 6-19 license;
- 6-20 (2) presents to the board a license, certificate, or
- 6-21 diploma that was illegally or fraudulently obtained;
- 6-22 (3) commits fraud or deception in taking or passing an
- 6-23 examination;
- 6-24 (4) uses alcohol or drugs in an intemperate manner
- 6-25 that, in the board's opinion, could endanger a patient's life;
- 6-26 (5) commits unprofessional or dishonorable conduct
- 6-27 that is likely to deceive or defraud the public, as provided by
- 6-28 Section 164.053, or injure the public;
- 6-29 (6) uses an advertising statement that is false,
- 6-30 misleading, or deceptive;
- 6-31 (7) advertises professional superiority or the
- 6-32 performance of professional service in a superior manner if that
- 6-33 advertising is not readily subject to verification;
- 6-34 (8) purchases, sells, barter, or uses, or offers to
- 6-35 purchase, sell, barter, or use, a medical degree, license,
- 6-36 certificate, or diploma, or a transcript of a license, certificate,
- 6-37 or diploma in or incident to an application to the board for a
- 6-38 license to practice medicine;
- 6-39 (9) alters, with fraudulent intent, a medical license,
- 6-40 certificate, or diploma, or a transcript of a medical license,
- 6-41 certificate, or diploma;
- 6-42 (10) uses a medical license, certificate, or diploma,
- 6-43 or a transcript of a medical license, certificate, or diploma that
- 6-44 has been:
  - 6-45 (A) fraudulently purchased or issued;
  - 6-46 (B) counterfeited; or
  - 6-47 (C) materially altered;
- 6-48 (11) impersonates or acts as proxy for another person
- 6-49 in an examination required by this subtitle for a medical license;
- 6-50 (12) engages in conduct that subverts or attempts to
- 6-51 subvert an examination process required by this subtitle for a
- 6-52 medical license;
- 6-53 (13) impersonates a physician or permits another to
- 6-54 use the person's license or certificate to practice medicine in
- 6-55 this state;
- 6-56 (14) directly or indirectly employs a person whose
- 6-57 license to practice medicine has been suspended, canceled, or
- 6-58 revoked;
- 6-59 (15) associates in the practice of medicine with a
- 6-60 person:
  - 6-61 (A) whose license to practice medicine has been
  - 6-62 suspended, canceled, or revoked; or
  - 6-63 (B) who has been convicted of the unlawful
  - 6-64 practice of medicine in this state or elsewhere;
  - 6-65 (16) performs or procures a criminal abortion, aids or
  - 6-66 abets in the procuring of a criminal abortion, attempts to perform
  - 6-67 or procure a criminal abortion, or attempts to aid or abet the
  - 6-68 performance or procurement of a criminal abortion;
  - 6-69 (17) directly or indirectly aids or abets the practice

7-1 of medicine by a person, partnership, association, or corporation  
7-2 that is not licensed to practice medicine by the board;

7-3 (18) performs an abortion on a woman who is pregnant  
7-4 with a viable unborn child during the third trimester of the  
7-5 pregnancy unless:

7-6 (A) the abortion is necessary to prevent the  
7-7 death of the woman;

7-8 (B) the viable unborn child has a severe,  
7-9 irreversible brain impairment; or

7-10 (C) the woman is diagnosed with a significant  
7-11 likelihood of suffering imminent severe, irreversible brain damage  
7-12 or imminent severe, irreversible paralysis; [~~or~~]

7-13 (19) performs an abortion on an unemancipated minor  
7-14 without the written consent of the child's parent, managing  
7-15 conservator, or legal guardian or without a court order, as  
7-16 provided by Section 33.003 or 33.004, Family Code, authorizing the  
7-17 minor to consent to the abortion, unless the physician concludes  
7-18 that on the basis of the physician's good faith clinical judgment, a  
7-19 condition exists that complicates the medical condition of the  
7-20 pregnant minor and necessitates the immediate abortion of her  
7-21 pregnancy to avert her death or to avoid a serious risk of  
7-22 substantial impairment of a major bodily function and that there is  
7-23 insufficient time to obtain the consent of the child's parent,  
7-24 managing conservator, or legal guardian; or

7-25 (20) performs or induces or attempts to perform or  
7-26 induce an abortion in violation of Subchapter C, Chapter 171,  
7-27 Health and Safety Code.

7-28 SECTION 7. Subsection (b), Section 164.055, Occupations  
7-29 Code, is amended to read as follows:

7-30 (b) The sanctions provided by Subsection (a) are in addition  
7-31 to any other grounds for refusal to admit persons to examination  
7-32 under this subtitle or to issue a license or renew a license to  
7-33 practice medicine under this subtitle. The criminal penalties  
7-34 provided by Section 165.152 do not apply to a violation of Section  
7-35 170.002 or Subchapter C, Chapter 171, Health and Safety Code.

7-36 SECTION 8. Effective September 1, 2014, Subsection (c),  
7-37 Section 245.010, Health and Safety Code, is repealed.

7-38 SECTION 9. This Act may not be construed to repeal, by  
7-39 implication or otherwise, Subdivision (18), Subsection (a),  
7-40 Section 164.052, Occupations Code, Section 170.002, Health and  
7-41 Safety Code, or any other provision of Texas law regulating or  
7-42 restricting abortion not specifically addressed by this Act. An  
7-43 abortion that complies with this Act but violates any other law is  
7-44 unlawful. An abortion that complies with another state law but  
7-45 violates this Act is unlawful as provided in this Act.

7-46 SECTION 10. (a) If some or all of the provisions of this  
7-47 Act are ever temporarily or permanently restrained or enjoined by  
7-48 judicial order, all other provisions of Texas law regulating or  
7-49 restricting abortion shall be enforced as though the restrained or  
7-50 enjoined provisions had not been adopted; provided, however, that  
7-51 whenever the temporary or permanent restraining order or injunction  
7-52 is stayed or dissolved, or otherwise ceases to have effect, the  
7-53 provisions shall have full force and effect.

7-54 (b) Mindful of Leavitt v. Jane L., 518 U.S. 137 (1996), in  
7-55 which in the context of determining the severability of a state  
7-56 statute regulating abortion the United States Supreme Court held  
7-57 that an explicit statement of legislative intent is controlling, it  
7-58 is the intent of the legislature that every provision, section,  
7-59 subsection, sentence, clause, phrase, or word in this Act, and  
7-60 every application of the provisions in this Act, are severable from  
7-61 each other. If any application of any provision in this Act to any  
7-62 person, group of persons, or circumstances is found by a court to be  
7-63 invalid, the remaining applications of that provision to all other  
7-64 persons and circumstances shall be severed and may not be affected.  
7-65 All constitutionally valid applications of this Act shall be  
7-66 severed from any applications that a court finds to be invalid,  
7-67 leaving the valid applications in force, because it is the  
7-68 legislature's intent and priority that the valid applications be  
7-69 allowed to stand alone. Even if a reviewing court finds a provision

8-1 of this Act to impose an undue burden in a large or substantial  
8-2 fraction of relevant cases, the applications that do not present an  
8-3 undue burden shall be severed from the remaining provisions and  
8-4 shall remain in force, and shall be treated as if the legislature  
8-5 had enacted a statute limited to the persons, group of persons, or  
8-6 circumstances for which the statute's application does not present  
8-7 an undue burden. The legislature further declares that it would  
8-8 have passed this Act, and each provision, section, subsection,  
8-9 sentence, clause, phrase, or word, and all constitutional  
8-10 applications of this Act, irrespective of the fact that any  
8-11 provision, section, subsection, sentence, clause, phrase, or word,  
8-12 or applications of this Act, were to be declared unconstitutional  
8-13 or to represent an undue burden.

8-14 (c) If Subchapter C, Chapter 171, Health and Safety Code, as  
8-15 added by this Act, prohibiting abortions performed on an unborn  
8-16 child 20 or more weeks after fertilization is found by any court to  
8-17 be invalid or to impose an undue burden as applied to any person,  
8-18 group of persons, or circumstances, the prohibition shall apply to  
8-19 that person or group of persons or circumstances on the earliest  
8-20 date on which the subchapter can be constitutionally applied.

8-21 (d) If any provision of this Act is found by any court to be  
8-22 unconstitutionally vague, then the applications of that provision  
8-23 that do not present constitutional vagueness problems shall be  
8-24 severed and remain in force.

8-25 SECTION 11. (a) The executive commissioner of the Health  
8-26 and Human Services Commission shall adopt the standards required by  
8-27 Section 245.010, Health and Safety Code, as amended by this Act, not  
8-28 later than January 1, 2014.

8-29 (b) A facility licensed under Chapter 245, Health and Safety  
8-30 Code, is not required to comply with the standards adopted under  
8-31 Section 245.010, Health and Safety Code, as amended by this Act,  
8-32 before September 1, 2014.

8-33 SECTION 12. This Act takes effect immediately if it  
8-34 receives a vote of two-thirds of all the members elected to each  
8-35 house, as provided by Section 39, Article III, Texas Constitution.  
8-36 If this Act does not receive the vote necessary for immediate  
8-37 effect, this Act takes effect on the 91st day after the last day of  
8-38 the legislative session.

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