

CHAPTER 469

H.B. No. 410

AN ACT

relating to the regulation of the practice of medicine in performing certain abortions.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subchapter D, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Section 4.011 to read as follows:

*Sec. 4.011. PROHIBITED ACTS INVOLVING ABORTION; DISCIPLINARY PROVISIONS; REPORTING. (a) In this section:*

(1) "Abortion" means an act involving the use of an instrument, medicine, drug, or other substance or device developed to terminate the pregnancy of a woman if the act is done with an intention other than to increase the probability of a live birth of the unborn child of the woman, to preserve the life or health of the child, or to remove a dead fetus.

(2) "Physician" means an individual licensed to practice medicine in this state.

(3) "Viable" means the stage of fetal development when, in the medical judgment of the attending physician based on the particular facts of the case, an unborn child possesses the capacity to live outside its mother's womb after its premature birth resulting from any cause. However, the term does not apply to a fetus whose biparietal diameter is less than 60 millimeters.

(b) Except as provided by Subsection (d) of this section, a person may not intentionally or knowingly perform an abortion on a woman who is pregnant with a viable unborn child during the third trimester of the pregnancy.

(c) The board may take any appropriate disciplinary action against a practitioner of medicine who violates Subsection (b) of this section. The board may refuse to admit to examination or refuse to issue a license or renewal license to a person who violates Subsection (b) of this section.

(d) Subsection (b) of this section does not prohibit a person from performing an abortion if at the time of the abortion the person is a physician and concludes in good faith according to the physician's best medical judgment:

(1) that the fetus is not a viable fetus and that the pregnancy is not in the third trimester;

*(2) that the abortion is necessary to prevent the death or a substantial risk of serious impairment to the physical or mental health of the woman; or*

*(3) that the fetus has a severe and irreversible abnormality, as identified through reliable diagnostic procedures.*

*(e) The sanctions provided by Subsection (c) of this section are in addition to any other grounds for refusal to admit persons to examination under this Act or to issue a license or renew a license to practice medicine under this Act. The criminal penalties provided by Section 3.07(a) of this Act do not apply to Subsection (b) of this section.*

*(f) A physician who performs an abortion that, according to the physician's best medical judgment at the time of the abortion, is to abort a viable unborn child during the third trimester of the pregnancy shall certify in writing to the Texas Department of Health the medical indications supporting the physician's judgment that the abortion was authorized by Subsection (d)(2) or (3) of this section. The certification must be made on or before the 30th day after the date the abortion was performed. The Texas Department of Health shall develop a form to be used for purposes of making the certification.*

SECTION 2. This Act takes effect September 1, 1987, and applies only to an abortion performed on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 19, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 410 on May 30, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 28, 1987, by a viva-voce vote.

Approved June 17, 1987.

Effective Sept. 1, 1987.