

HEALTH AND SAFETY CODE CHAPTER 171. ABORTION

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TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

CHAPTER 171. ABORTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171.001. SHORT TITLE. This chapter may be called the Woman's Right to Know Act.

Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.002. DEFINITION. In this chapter, "abortion" means the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus.

Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.003. PHYSICIAN TO PERFORM. An abortion may be performed only by a physician licensed to practice medicine in this state.

Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.004. ABORTION OF FETUS AGE 16 WEEKS OR MORE. An abortion of a fetus age 16 weeks or more may be performed only at an ambulatory surgical center or hospital licensed to perform the abortion.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.005. DEPARTMENT TO ENFORCE. The department shall enforce this chapter.

Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. INFORMED CONSENT

Sec. 171.011. INFORMED CONSENT REQUIRED. A person may not perform an abortion without the voluntary and informed consent of the woman on whom the abortion is to be performed.

Sec. 171.012. VOLUNTARY AND INFORMED CONSENT. (a) Except in the case of a medical emergency, consent to an abortion is voluntary and informed only if:

(1) the physician who is to perform the abortion or the referring physician informs the woman on whom the abortion is to be performed of:

(A) the name of the physician who will perform the abortion;

(B) the particular medical risks associated with the particular abortion procedure to be employed, including, when medically accurate:

(i) the risks of infection and hemorrhage;

(ii) the potential danger to a subsequent pregnancy and of infertility; and

(iii) the possibility of increased risk of breast cancer following an induced abortion and the natural protective effect of a completed pregnancy in avoiding breast cancer;

(C) the probable gestational age of the unborn child at the time the abortion is to be performed; and

(D) the medical risks associated with carrying the child to term;

(2) the physician who is to perform the abortion or the physician's agent informs the woman that:

(A) medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(B) the father is liable for assistance in the support of the child without regard to whether the father has offered to pay for the abortion;

(C) public and private agencies provide pregnancy prevention counseling and medical referrals for obtaining pregnancy prevention medications or devices, including emergency contraception for victims of rape or incest; and

(D) the woman has the right to review the printed materials described by Section 171.014, that those materials have

been provided by the Texas Department of Health and are accessible on an Internet website sponsored by the department, and that the materials describe the unborn child and list agencies that offer alternatives to abortion;

(3) the woman certifies in writing before the abortion is performed that the information described by Subdivisions (1) and (2) has been provided to her and that she has been informed of her opportunity to review the information described by Section 171.014; and

(4) before the abortion is performed, the physician who is to perform the abortion receives a copy of the written certification required by Subdivision (3).

(b) The information required to be provided under Subsections (a)(1) and (2) must be provided:

(1) orally by telephone or in person; and

(2) at least 24 hours before the abortion is to be performed.

(c) When providing the information under Subsection (a)(2)(D), the physician or the physician's agent must provide the woman with the address of the Internet website on which the printed materials described by Section 171.014 may be viewed as required by Section 171.014(e).

(d) The information provided to the woman under Subsection (a)(2)(B) must include, based on information available from the Office of the Attorney General and the United States Department of Health and Human Services Office of Child Support Enforcement for the three-year period preceding the publication of the information, information regarding the statistical likelihood of collecting child support.

(e) The department is not required to republish informational materials described by Subsection (a)(2)(B) because of a change in information described by Subsection (d) unless the statistical information in the materials changes by five percent or more.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.013. DISTRIBUTION OF STATE MATERIALS. (a) If the

woman chooses to view the materials described by Section 171.014, the physician or the physician's agent shall furnish copies of the materials to her at least 24 hours before the abortion is to be performed. A physician or the physician's agent may furnish the materials to the woman by mail if the materials are mailed, restricted delivery to addressee, at least 72 hours before the abortion is to be performed.

(b) A physician or the physician's agent is not required to furnish copies of the materials if the woman provides the physician with a written statement that she chooses to view the materials on the Internet website sponsored by the department.

(c) The physician and the physician's agent may disassociate themselves from the materials and may choose to comment on the materials or to refrain from commenting.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.014. INFORMATIONAL MATERIALS. (a) The department shall publish informational materials that include:

(1) the information required to be provided under Sections 171.012(a)(1)(B) and (D) and (a)(2)(A), (B), and (C); and

(2) the materials required by Sections 171.015 and 171.016.

(b) The materials shall be published in:

(1) English and Spanish;

(2) an easily comprehensible form; and

(3) a typeface large enough to be clearly legible.

(c) The materials shall be available at no cost from the department on request. The department shall provide appropriate quantities of the materials to any person.

(d) The department shall annually review the materials to determine if changes to the contents of the materials are necessary. The department shall adopt rules necessary for considering and making changes to the materials.

(e) The department shall develop and maintain an Internet website to display the information required to be published under this section. In developing and maintaining the website the department shall, to the extent reasonably practicable, safeguard

the website against alterations by anyone other than the department and shall monitor the website each day to prevent and correct tampering. The department shall ensure that the website does not collect or maintain information regarding access to the website.

(f) In addition to any other organization or entity, the department shall use the American College of Obstetricians and Gynecologists as the resource in developing information required to be provided under Sections 171.012(a)(1)(B) and (D), Sections 171.012(a)(2)(A), (B), and (C), and Section 171.016, and in maintaining the department's Internet website.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.015. INFORMATION RELATING TO PUBLIC AND PRIVATE AGENCIES. The informational materials must include either:

(1) geographically indexed materials designed to inform the woman of public and private agencies and services that:

(A) are available to assist a woman through pregnancy, childbirth, and the child's dependency, including:

(i) a comprehensive list of adoption agencies;

(ii) a description of the services the adoption agencies offer; and

(iii) a description of the manner, including telephone numbers, in which an adoption agency may be contacted;

(B) do not provide abortions or abortion-related services or make referrals to abortion providers; and

(C) are not affiliated with organizations that provide abortions or abortion-related services or make referrals to abortion providers; or

(2) a toll-free, 24-hour telephone number that may be called to obtain an oral list and description of agencies described by Subdivision (1) that are located near the caller and of the services the agencies offer.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.016. INFORMATION RELATING TO CHARACTERISTICS OF

UNBORN CHILD. (a) The informational materials must include materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the unborn child's survival.

(b) The materials must include color pictures representing the development of the child at two-week gestational increments. The pictures must contain the dimensions of the unborn child and must be realistic.

(c) The materials provided under this section must be objective and nonjudgmental and be designed to convey only accurate scientific information about the unborn child at the various gestational ages.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.017. PERIODS RUN CONCURRENTLY. If the woman is an unemancipated minor subject to Chapter 33, Family Code, the 24-hour periods established under Sections 171.012(b) and 171.013(a) may run concurrently with the period during which actual or constructive notice is provided under Section 33.002, Family Code. Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.

Sec. 171.018. OFFENSE. A physician who intentionally performs an abortion on a woman in violation of this subchapter commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$10,000. In this section, "intentionally" has the meaning assigned by Section 6.03(a), Penal Code.

Added by Acts 2003, 78th Leg., ch. 999, Sec. 1, eff. Sept. 1, 2003.