



Physicians Caring for Texans

**TMA Comments: Senate Bill 5 by Sen. Glenn Hegar Jr., and  
House Bill 60 by Rep. Jodie Laubenberg  
*June 23, 2013***

The Texas Medical Association is a private, voluntary, nonprofit association of more than 47,000 member physicians and medical students. TMA was founded in 1853 to serve the people of Texas in matters of medical care, prevention and cure of disease, and improvement of public health. Our foundational principle is the same today: “Physicians Caring for Texans.”

TMA’s diverse physician members practice in all fields of medical specialization. Our member physicians fall on both sides of any debate on abortion. Our concerns with Senate Bill 5 and House Bill 60 are not based on any position on abortion. Rather, our concerns are with legislative intrusion into the patient-physician relationship and the details of the practice of medicine, and with a legislatively created standard of care.

As previously outlined in our written statement on Senate Bill 97 (83rd Texas Legislature), TMA is concerned this legislation sets a dangerous precedent of the legislature prescribing the details of the practice of medicine. These are determinations to be made by the medical community and science, not by the legislature.

Examples of concerns with these proposed bills are:

- SB 5/HB 60 would prohibit abortions at or after 20 weeks post-fertilization and add a violation related to abortions performed at or after 20 weeks post-fertilization to the list of prohibited practices by physicians or license applicants. The bill also assesses administrative penalties for physicians distributing or prescribing abortion-inducing drugs in certain situations.

Physicians see women in all stages of pregnancy and with complications that arise from pregnancy, such as miscarriage, partial spontaneous abortion, and infection. The bill as written could have a chilling effect on physicians using their best judgment within a conscientious patient-physician relationship with both the mother and the fetus. The unintended consequences of the bill could risk the mother’s future fertility or even her life.

Physicians will be discouraged from administering certain medications in the hospital, likely resulting in less willingness to care for women in these situations. This access problem may, paradoxically, increase fetal losses in these difficult situations, as follows. Physicians who care for women experiencing symptoms threatening the pregnancy late in the second trimester will be less likely to do invasive procedures to prolong pregnancy. This is because if they fail, they will be

unable to adequately care for the patients because medications can't be delegated due to the current wording of this bill.

- SB 5/HB 60 is overly specific in directing physicians in regards to the prescription of an abortion-inducing drug approved by the U.S. Food and Drug Administration for use by women who seek an abortion. The bill prescribes details in the practice of medicine, such as requirements for the examination, patient-physician communications, and protocols.
- SB 5/HB 60 requires a physician or other health care personnel to be available by phone 24 hours a day, indefinitely. Although the intent of these provisions may be to allow the patient access to the physician or provider for assistance with complications, as written they are overly broad and could require 24/7 access for years. Furthermore, these sections of the bill are vague in that they appear to require access to medical records 24 hours a day, which is an overly broad and unprecedented requirement.

The patient-physician relationship is one of mutuality and trust. Patients must be able to trust that their physicians are always acting in each patient's individual best interests. They must be assured of candid communication with their physicians so they may effectively evaluate their medical care options. TMA strongly opposes any legislation that interferes in this relationship.

TMA appreciates the opportunity to provide you our concerns regarding SB 5/HB 60. We urge you to take these comments into serious consideration and are happy to provide any additional information or assistance you may request.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen L. Brotherton", with a long horizontal stroke extending to the right.

Stephen L. Brotherton, MD  
President