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January 5, 2005

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, TX 78711-2548

FRANK J. CORTE JR.

RQ-0158-GA

FILE # ML-43407-04
I.D. # 43407

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OPINION COMMITTEE

Dear General Abbott:

As chair of the House Defense Affairs and State-Federal Relations Committee, I am requesting your opinion on the following questions:

(1) whether under Sections 245.009 and 245.010, Health and Safety Code, the Texas Department of Health is required to adopt minimum standards for all abortion facilities, including facilities exempt from licensing under Section 245.004, Health and Safety Code; and

(2) whether the rules regarding inspections of abortion facilities under Section 245.006, Health and Safety Code, and investigations of complaints regarding abortion facilities should apply to all abortion facilities, including facilities exempt from licensing under Section 245.004, Health and Safety Code.

On November 14, 2003, the Texas Department of Health proposed changes to 25 TAC Chapter 139, which contains the rules governing abortion facilities as required by Chapter 245, Health and Safety Code. 28 Tex. Reg. 46 (10051-10076). The proposed change that prompts my questions to you is the addition of the word "licensed" before the words "abortion facility" in two provisions of Chapter 139--in Subchapter D, which establishes minimum standards for abortion facilities as required by Sections 245.009 and 245.010, Health and Safety Code, and in Section 139.31, which provides for the inspection of facilities and for the investigation of complaints by the department as authorized by Section 245.006, Health and Safety Code. These proposed changes would exclude from the application of these provisions abortion facilities that are exempt from licensing under Section 245.004, Health and Safety Code.



DISTRICT 122

COMMITTEES: CHAIR-DEFENSE AFFAIRS AND STATE-FEDERAL RELATIONS • JUDICIAL AFFAIRS

E-Mail: frank.corte@house.state.tx.us

The Honorable Greg Abbott
December 8, 2003
Page 2

If it is your opinion that the minimum standards under Chapter 139 need not apply to unlicensed abortion facilities, I ask which standards, if any, apply to these facilities and how those standards can be enforced? In addition, if it is your opinion that the inspection and complaint investigation provisions of Chapter 139 need not apply to unlicensed abortion facilities, I ask how inspections and complaint investigations are to be conducted for unlicensed facilities?

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Corte". The signature is written in a cursive, somewhat stylized script.

Representative Frank Corte
Chair, House Defense Affairs and State-Federal
Relations Committee

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