

By: Swanson

H.B. No. 86

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibited acts for a physician or applicant for a
3 medical license.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 164.052(a), Occupations Code, as
6 effective September 1, 2017, is amended to read as follows:

7 (a) A physician or an applicant for a license to practice
8 medicine commits a prohibited practice if that person:

9 (1) submits to the board a false or misleading
10 statement, document, or certificate in an application for a
11 license;

12 (2) presents to the board a license, certificate, or
13 diploma that was illegally or fraudulently obtained;

14 (3) commits fraud or deception in taking or passing an
15 examination;

16 (4) uses alcohol or drugs in an intemperate manner
17 that, in the board's opinion, could endanger a patient's life;

18 (5) commits unprofessional or dishonorable conduct
19 that is likely to deceive or defraud the public, as provided by
20 Section 164.053, or injure the public;

21 (6) uses an advertising statement that is false,
22 misleading, or deceptive;

23 (7) advertises professional superiority or the
24 performance of professional service in a superior manner if that

1 advertising is not readily subject to verification;

2 (8) purchases, sells, barters, or uses, or offers to
3 purchase, sell, barter, or use, a medical degree, license,
4 certificate, or diploma, or a transcript of a license, certificate,
5 or diploma in or incident to an application to the board for a
6 license to practice medicine;

7 (9) alters, with fraudulent intent, a medical license,
8 certificate, or diploma, or a transcript of a medical license,
9 certificate, or diploma;

10 (10) uses a medical license, certificate, or diploma,
11 or a transcript of a medical license, certificate, or diploma that
12 has been:

13 (A) fraudulently purchased or issued;

14 (B) counterfeited; or

15 (C) materially altered;

16 (11) impersonates or acts as proxy for another person
17 in an examination required by this subtitle for a medical license;

18 (12) engages in conduct that subverts or attempts to
19 subvert an examination process required by this subtitle for a
20 medical license;

21 (13) impersonates a physician or permits another to
22 use the person's license or certificate to practice medicine in
23 this state;

24 (14) directly or indirectly employs a person whose
25 license to practice medicine has been suspended, canceled, or
26 revoked;

27 (15) associates in the practice of medicine with a

1 person:

2 (A) whose license to practice medicine has been
3 suspended, canceled, or revoked; or

4 (B) who has been convicted of the unlawful
5 practice of medicine in this state or elsewhere;

6 (16) performs or procures a criminal abortion, aids or
7 abets in the procuring of a criminal abortion, attempts to perform
8 or procure a criminal abortion, or attempts to aid or abet the
9 performance or procurement of a criminal abortion;

10 (17) directly or indirectly aids or abets the practice
11 of medicine by a person, partnership, association, or corporation
12 that is not licensed to practice medicine by the board;

13 (18) performs an abortion on a woman who is pregnant
14 with a viable unborn child during the third trimester of the
15 pregnancy unless:

16 (A) the abortion is necessary to prevent the
17 death of the woman;

18 (B) the viable unborn child has a severe,
19 irreversible brain impairment; or

20 (C) the woman is diagnosed with a significant
21 likelihood of suffering imminent severe, irreversible brain damage
22 or imminent severe, irreversible paralysis;

23 (19) performs an abortion on an unemancipated minor
24 without the written consent of the child's parent, managing
25 conservator, or legal guardian or without a court order, as
26 provided by Section 33.003 or 33.004, Family Code, unless the
27 abortion is necessary due to a medical emergency, as defined by

1 Section 171.002, Health and Safety Code;

2 (20) otherwise performs an abortion on an
3 unemancipated minor in violation of Chapter 33, Family Code; ~~[or]~~

4 (21) performs or induces or attempts to perform or
5 induce an abortion in violation of Subchapter C, F, or G, Chapter
6 171, Health and Safety Code; or

7 (22) notwithstanding Subdivisions (18)-(21) or any
8 other law, performs an abortion on a woman unless:

9 (A) there exists a condition that, in a
10 physician's reasonable medical judgment, so complicates the
11 medical condition of the woman that, to avert the woman's death or a
12 serious risk of substantial and irreversible physical impairment of
13 a major bodily function, other than a psychological condition, it
14 necessitates the abortion; or

15 (B) if the woman is pregnant with multiple unborn
16 children, the abortion is necessary to ensure that at least one
17 unborn child is born alive and healthy.

18 SECTION 2. Section 164.055, Occupations Code, as effective
19 September 1, 2017, is amended to read as follows:

20 Sec. 164.055. PROHIBITED ACTS REGARDING ABORTION. (a) The
21 board shall take an appropriate disciplinary action against a
22 physician who violates Section 170.002 or Chapter 171, Health and
23 Safety Code, and shall revoke the license of a physician who
24 violates Section 164.052(a)(22) of this code. The board shall
25 refuse to admit to examination or refuse to issue a license or
26 renewal license to a person who violates any of those provisions
27 ~~[that section or chapter]~~.

1 (b) The sanctions provided by Subsection (a) are in addition
2 to any other grounds for refusal to admit persons to examination
3 under this subtitle or to issue a license or renew a license to
4 practice medicine under this subtitle. The criminal penalties
5 provided by Section 165.152 do not apply to a violation of Section
6 170.002, Health and Safety Code, [~~or~~] Subchapter C, F, or G, Chapter
7 171, Health and Safety Code, or Section 164.052(a)(22) of this
8 code.

9 SECTION 3. Sections 164.052 and 164.055, Occupations Code,
10 as amended by this Act, apply only to an abortion performed on or
11 after the effective date of this Act. An abortion performed before
12 the effective date of this Act is governed by the law applicable to
13 the abortion on the date the abortion is performed, and that law is
14 continued in effect for that purpose.

15 SECTION 4. This Act takes effect on the 91st day after the
16 last day of the legislative session.