

By: Swanson

H.B. No. 312

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, Occupations Code, as effective
6 September 1, 2017, is amended by amending Subsection (a) and adding
7 Subsection (d) to read as follows:

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

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

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

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

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

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

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

24 (7) advertises professional superiority or the

1 performance of professional service in a superior manner if that
2 advertising is not readily subject to verification;

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

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

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

14 (A) fraudulently purchased or issued;

15 (B) counterfeited; or

16 (C) materially altered;

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

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

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

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

1 (15) associates in the practice of medicine with a
2 person:

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

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

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

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

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

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

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

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

24 (19) performs an abortion on an unemancipated minor
25 without the written consent of the child's parent, managing
26 conservator, or legal guardian or without a court order, as
27 provided by Section [33.003](#) or [33.004](#), Family Code, unless the

1 abortion is necessary due to a medical emergency, as defined by
2 Section 171.002, Health and Safety Code;

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

5 (21) performs or induces or attempts to perform or
6 induce an abortion in violation of Subchapter C, F, or G, Chapter
7 171, Health and Safety Code; or

8 (22) notwithstanding Subdivisions (18)-(21) or any
9 other law:

10 (A) performs an abortion on a woman or diagnoses
11 or treats an abortion complication; and

12 (B) fails to comply with any reporting
13 requirement prescribed by law for a procedure described by
14 Paragraph (A).

15 (d) In this section "abortion complication" means any
16 harmful event or adverse outcome with respect to a patient related
17 to an abortion that is performed on the patient and that is
18 diagnosed or treated by a health care practitioner or at a health
19 care facility and includes:

20 (1) shock;

21 (2) uterine perforation;

22 (3) cervical laceration;

23 (4) hemorrhage;

24 (5) aspiration or allergic response;

25 (6) infection;

26 (7) sepsis;

27 (8) death of the patient;

1 (9) incomplete abortion;

2 (10) damage to the uterus; or

3 (11) an infant born alive after the abortion.

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

6 Sec. 164.055. PROHIBITED ACTS REGARDING ABORTION. (a) The
7 board shall take an appropriate disciplinary action against a
8 physician who violates Section 170.002 or Chapter 171, Health and
9 Safety Code, and shall revoke the license of a physician who
10 violates Section 164.052(a)(22) of this code. The board shall
11 refuse to admit to examination or refuse to issue a license or
12 renewal license to a person who violates any of those provisions
13 [that section or chapter].

14 (b) The sanctions provided by Subsection (a) are in addition
15 to any other grounds for refusal to admit persons to examination
16 under this subtitle or to issue a license or renew a license to
17 practice medicine under this subtitle. The criminal penalties
18 provided by Section 165.152 do not apply to a violation of Section
19 170.002, Health and Safety Code, ~~or~~ Subchapter C, F, or G, Chapter
20 171, Health and Safety Code, or Section 164.052(a)(22) of this
21 code.

22 SECTION 3. Sections 164.052 and 164.055, Occupations Code,
23 as amended by this Act, apply only to an abortion performed or an
24 abortion complication diagnosed or treated on or after the
25 effective date of this Act. An abortion performed or an abortion
26 complication diagnosed or treated before the effective date of this
27 Act is governed by the law applicable to the abortion on the date

1 the abortion is performed or the abortion complication is diagnosed
2 or treated, and that law is continued in effect for that purpose.

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