

By: Swanson

H.B. No. 1049

A BILL TO BE ENTITLED

AN ACT

relating to prohibited acts regarding abortion for a physician or applicant for a medical license.

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

SECTION 1. Section 164.052(a), Occupations Code, is amended to read as follows:

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

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

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

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

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

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

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

(7) advertises professional superiority or the 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, Chapter 171,  
6 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;

15 (B) the abortion is to remove an ectopic  
16 pregnancy; or

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

20 SECTION 2. Section 164.055, Occupations Code, is amended to  
21 read as follows:

22 Sec. 164.055. PROHIBITED ACTS REGARDING ABORTION. (a) The  
23 board shall take an appropriate disciplinary action against a  
24 physician who violates Section 170.002 or Chapter 171, Health and  
25 Safety Code, and shall revoke the license of a physician who  
26 violates Section 164.052(a)(22) of this code. The board shall  
27 refuse to admit to examination or refuse to issue a license or

1 renewal license to a person who violates any of those provisions  
2 [~~that section or chapter~~].

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

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

16 SECTION 4. This Act takes effect September 1, 2017.