

By: Miller

H.B. No. 3205

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offense of delivery of a drug or device for an unlawful abortion.

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

SECTION 1. Chapter 170, Health and Safety Code, is amended by adding Section 170.003 to read as follows:

Sec. 170.003. DELIVERY OF DRUG OR DEVICE FOR UNLAWFUL ABORTION. (a) In this section, "deliver" means to transfer or cause to transfer, actually or constructively, property to another person.

(b) A person commits an offense if the person knowingly delivers or attempts to deliver a drug or device intended to be used to induce an unlawful abortion.

(c) An offense under this section is a state jail felony.

(d) It is an exception to the application of this section that the actor is a pregnant woman on whom the drug or device was intended to be used.

(e) A person who is subject to prosecution under this section and any other law may be prosecuted under either or both laws.

SECTION 2. 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 (1) submits to the board a false or misleading
2 statement, document, or certificate in an application for a
3 license;

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

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

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

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

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

15 (7) advertises professional superiority or the
16 performance of professional service in a superior manner if that
17 advertising is not readily subject to verification;

18 (8) purchases, sells, barter, or uses, or offers to
19 purchase, sell, barter, or use, a medical degree, license,
20 certificate, or diploma, or a transcript of a license, certificate,
21 or diploma in or incident to an application to the board for a
22 license to practice medicine;

23 (9) alters, with fraudulent intent, a medical license,
24 certificate, or diploma, or a transcript of a medical license,
25 certificate, or diploma;

26 (10) uses a medical license, certificate, or diploma,
27 or a transcript of a medical license, certificate, or diploma that

1 has been:

2 (A) fraudulently purchased or issued;

3 (B) counterfeited; or

4 (C) materially altered;

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

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

10 (13) impersonates a physician or permits another to
11 use the person's license or certificate to practice medicine in
12 this state;

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

16 (15) associates in the practice of medicine with a
17 person:

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

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

22 (16) performs or procures a criminal abortion, aids or
23 abets in the procuring of a criminal abortion, attempts to perform
24 or procure a criminal abortion, or attempts to aid or abet the
25 performance or procurement of a criminal abortion;

26 (17) directly or indirectly aids or abets the practice
27 of medicine by a person, partnership, association, or corporation

1 that is not licensed to practice medicine by the board;

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

5 (A) the abortion is necessary to prevent the
6 death of the woman;

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

9 (C) the woman is diagnosed with a significant
10 likelihood of suffering imminent severe, irreversible brain damage
11 or imminent severe, irreversible paralysis;

12 (19) performs an abortion on an unemancipated minor
13 without the written consent of the child's parent, managing
14 conservator, or legal guardian or without a court order, as
15 provided by Section 33.003 or 33.004, Family Code, unless the
16 abortion is necessary due to a medical emergency, as defined by
17 Section 171.002, Health and Safety Code;

18 (20) otherwise performs an abortion on an
19 unemancipated minor in violation of Chapter 33, Family Code; ~~or~~

20 (21) performs or induces or attempts to perform or
21 induce an abortion in violation of Subchapter C, F, or G, Chapter
22 171, Health and Safety Code; or

23 (22) delivers or attempts to deliver a drug or device
24 for an unlawful abortion in violation of Section 170.003, Health
25 and Safety Code.

26 SECTION 3. Section 164.055, Occupations Code, is amended to
27 read as follows:

1 Sec. 164.055. PROHIBITED ACTS REGARDING ABORTION. (a) The
2 board shall take an appropriate disciplinary action against a
3 physician who violates [~~Section 170.002 or~~] Chapter 170 or 171,
4 Health and Safety Code. The board shall refuse to admit to
5 examination or refuse to issue a license or renewal license to a
6 person who violates either of those chapters [~~that section or~~
7 ~~chapter~~].

8 (b) The sanctions provided by Subsection (a) are in addition
9 to any other grounds for refusal to admit persons to examination
10 under this subtitle or to issue a license or renew a license to
11 practice medicine under this subtitle. The criminal penalties
12 provided by Section 165.152 do not apply to a violation of Chapter
13 170 [~~Section 170.002~~], Health and Safety Code, or Subchapter C, F,
14 or G, Chapter 171, Health and Safety Code.

15 SECTION 4. This Act takes effect September 1, 2019.