

By: Hughes

S.B. No. 2366

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the performance of nonsurgical medical cosmetic
3 procedures at medical spas; providing a civil penalty.

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

5 SECTION 1. Subchapter E, Chapter 17, Business & Commerce
6 Code, is amended by adding Section 17.465 to read as follows:

7 Sec. 17.465. MEDICAL SPA OPERATION. (a) In this section,
8 "medical spa" means an establishment at which nonsurgical medical
9 cosmetic procedures, including the injection of medication or
10 substances for cosmetic purposes, the administration of colonic
11 irrigations, and the use of a prescription medical device for
12 cosmetic purposes, are performed if the performance of the
13 nonsurgical medical cosmetic procedures at the establishment would
14 be subject to regulation under rules adopted by the Texas Medical
15 Board establishing the duties and responsibilities of a physician
16 who performs or delegates the performance of a nonsurgical medical
17 cosmetic procedure.

18 (b) For purposes of Section 17.46(a), the term "false,
19 misleading, or deceptive acts or practices" includes the
20 performance at a medical spa of a nonsurgical medical cosmetic
21 procedure by a person other than a physician assistant acting under
22 the supervision of a licensed physician or an advanced practice
23 registered nurse acting under the supervision of a licensed
24 physician.

1 (c) A medical spa shall post a notice prescribed by the
2 attorney general under Subsection (d) in a location in which it is
3 likely to be seen and read by a person who enters the medical spa.

4 (d) The attorney general shall adopt rules prescribing the
5 form and content of a notice to be posted by a medical spa. The
6 notice must:

7 (1) inform patients and the public of the restrictions
8 on the performance of nonsurgical medical cosmetic procedures under
9 this section and rules adopted by the Texas Medical Board; and

10 (2) provide the name, mailing address, telephone
11 number, and Internet website of the consumer protection division
12 for the purpose of directing complaints to the division.

13 (e) The Texas Medical Board shall forward any complaints the
14 board receives related to the performance of a nonsurgical medical
15 cosmetic procedure to the consumer protection division. This
16 subsection does not limit the Texas Medical Board's authority to
17 take any action the board is authorized to take with respect to a
18 complaint required to be forwarded under this subsection.

19 (f) In an action brought under Section 17.47 to enforce this
20 section, the consumer protection division may request and the trier
21 of fact may award the recovery of:

22 (1) reasonable attorney's fees and court costs; and

23 (2) the reasonable expenses incurred by the division
24 in obtaining any remedy available under Section 17.47, including
25 the cost of investigation, witness fees, and deposition expenses.

26 SECTION 2. The attorney general shall adopt rules
27 prescribing the form and content of the notice under Section

1 17.465(d), Business & Commerce Code, as added by this Act, not later
2 than December 1, 2019.

3 SECTION 3. (a) Except as provided by Subsection (b) of this
4 section, this Act takes effect September 1, 2019.

5 (b) Section 17.465(c), Business & Commerce Code, as added by
6 this Act, takes effect January 1, 2020.