87R5117 KKR-D

By:  Shaheen H.B. No. 1432

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting certain discriminatory abortions; authorizing disciplinary action; authorizing an administrative penalty.

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

SECTION 1.  Chapter 170, Health and Safety Code, is amended by designating Sections 170.001 and 170.002 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION PROHIBITED

SECTION 2.  Chapter 170, Health and Safety Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DISCRIMINATORY ABORTION PROHIBITED

Sec. 170.051.  DISCRIMINATORY ABORTION. A person may not:

(1)  knowingly perform, induce, or attempt to perform or induce on a pregnant woman an abortion based on the race, ethnicity, or national origin of the unborn child; or

(2)  recommend an abortion based on the race, ethnicity, or national origin of an unborn child.

Sec. 170.052.  LICENSE SUSPENSION OR REVOCATION. A physician who violates Section 170.051 engages in unprofessional conduct for which the physician's license may be suspended or revoked under Chapter 164, Occupations Code.

Sec. 170.053.  ABORTION FACILITY; ADMINISTRATIVE PENALTY. The commission may impose an administrative penalty, in the amount determined by the commission, against an abortion facility licensed under Chapter 245 that violates Section 170.051 as if the facility had violated the facility's applicable licensing law.

SECTION 3.  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 advertising is not readily subject to verification;

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

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

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

(A)  fraudulently purchased or issued;

(B)  counterfeited; or

(C)  materially altered;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22)  in complying with the procedures outlined in Sections 166.045 and 166.046, Health and Safety Code, wilfully fails to make a reasonable effort to transfer a patient to a physician who is willing to comply with a directive; or

(23)  performs, induces, or attempts to perform or induce an abortion or engages in other conduct in violation of Section 170.051, Health and Safety Code.

SECTION 4.  Section 164.055(b), Occupations Code, is amended to read as follows:

(b)  The sanctions provided by Subsection (a) are in addition to any other grounds for refusal to admit persons to examination under this subtitle or to issue a license or renew a license to practice medicine under this subtitle. The criminal penalties provided by Section 165.152 do not apply to a violation of Section 170.002 or 170.051, Health and Safety Code, or Subchapter C, F, or G, Chapter 171, Health and Safety Code.

SECTION 5.  The changes in law made by this Act to Chapter 170, Health and Safety Code, and Chapter 164, Occupations Code, apply only to an abortion performed, induced, or attempted or other conduct that occurs on or after the effective date of this Act. An abortion performed, induced, or attempted or other conduct that occurred before that date is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6.  This Act takes effect September 1, 2021.