

A BILL TO BE ENTITLED

AN ACT

relating to limitations on pelvic examinations; authorizing disciplinary action, including an administrative penalty.

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

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 167A to read as follows:

CHAPTER 167A. PELVIC EXAMINATIONS

Sec. 167A.001. DEFINITIONS. In this chapter:

(1) "Health care practitioner" means a physician, physician assistant, or advanced practice registered nurse licensed to practice in this state.

(2) "Pelvic examination" means a physical examination by a health care practitioner of a female's external and internal reproductive organs, genitalia, or rectum.

Sec. 167A.002. LIMITATIONS ON PELVIC EXAMINATIONS. A health care practitioner may perform or delegate to another individual, including a student training to become a health care practitioner, to perform a pelvic examination on a patient only if:

(1) the pelvic examination is within the standard of care for diagnosis or treatment of the patient's medical condition;
and

(2) either:

(A) the patient or the patient's legally authorized representative gives informed consent for the pelvic

1 examination that provides notice of the pelvic examination and
2 identifies each individual who will be performing or observing the
3 pelvic examination; or

4 (B) for a patient who is unconscious or
5 anesthetized, the pelvic examination is immediately necessary for
6 diagnosis or treatment of the patient's medical condition.

7 Sec. 167A.003. DISCIPLINARY ACTION. A health care
8 practitioner who violates Section 167A.002 is subject to
9 disciplinary action, including the imposition of an administrative
10 penalty, by the state regulatory agency that issues a license to the
11 practitioner.

12 SECTION 2. Section 164.052(a), Occupations Code, is amended
13 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

17 (A) fraudulently purchased or issued;

18 (B) counterfeited; or

19 (C) materially altered;

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (19) performs an abortion on an unemancipated minor

1 without the written consent of the child's parent, managing
2 conservator, or legal guardian or without a court order, as
3 provided by Section 33.003 or 33.004, Family Code, unless the
4 abortion is necessary due to a medical emergency, as defined by
5 Section 171.002, Health and Safety Code;

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

8 (21) performs or induces or attempts to perform or
9 induce an abortion in violation of Subchapter C, F, or G, Chapter
10 171, Health and Safety Code; [~~or~~]

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

15 (23) performs or delegates to another individual to
16 perform a pelvic examination in violation of Section 167A.002,
17 Health and Safety Code.

18 SECTION 3. The changes in law made by this Act apply only to
19 a pelvic examination performed on or after the effective date of
20 this Act. A pelvic examination performed before the effective date
21 of this Act is governed by the law in effect when the pelvic
22 examination occurred, and the former law is continued in effect for
23 that purpose.

24 SECTION 4. This Act takes effect September 1, 2021.