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H.B. No. 1399

A BILL TO BE ENTITLED

AN ACT

relating to professional liability insurance coverage for and prohibitions on the provision to certain children of procedures and treatments for gender transitioning, gender reassignment, or gender dysphoria.

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

SECTION 1. Chapter 161, Health and Safety Code, is amended by adding Subchapter X to read as follows:

SUBCHAPTER X. GENDER TRANSITIONING AND GENDER REASSIGNMENT

PROCEDURES AND TREATMENTS FOR CERTAIN CHILDREN

Sec. 161.701. DEFINITIONS. In this subchapter:

(1) "Child" means an individual who is younger than 18 years of age.

(2) "Health care provider" means a person other than a physician who is licensed, certified, or otherwise authorized by the laws of this state to provide or render health care or to dispense or prescribe a prescription drug in the ordinary course of business or practice of a profession.

(3) "Physician" means a person licensed to practice medicine in this state.

Sec. 161.702. PROHIBITED PROVISION OF GENDER TRANSITIONING OR GENDER REASSIGNMENT PROCEDURES AND TREATMENTS TO CERTAIN CHILDREN. For the purpose of transitioning a child's biological sex as determined by the sex organs, chromosomes, and endogenous

1 profiles of the child or affirming the child's perception of the
2 child's sex if that perception is inconsistent with the child's
3 biological sex, a physician or other health care provider may not:

4 (1) perform a surgery that sterilizes the child,
5 including:

6 (A) castration;

7 (B) vasectomy;

8 (C) hysterectomy;

9 (D) oophorectomy;

10 (E) metoidioplasty;

11 (F) orchiectomy;

12 (G) penectomy;

13 (H) phalloplasty; and

14 (I) vaginoplasty;

15 (2) perform a mastectomy;

16 (3) provide, administer, prescribe, or dispense any of
17 the following prescription drugs that induce transient or permanent
18 infertility:

19 (A) puberty suppression or blocking prescription
20 drugs to stop or delay normal puberty;

21 (B) supraphysiologic doses of testosterone to
22 females; or

23 (C) supraphysiologic doses of estrogen to males;

24 or

25 (4) remove any otherwise healthy or non-diseased body
26 part or tissue.

27 Sec. 161.703. EXCEPTIONS. The prohibitions under Section

1 161.702 do not apply to the provision by a physician or other health
2 care provider, with the consent of the child's parent or legal
3 guardian, of appropriate and medically necessary gender
4 transitioning or gender reassignment procedures or treatments to a
5 child who:

6 (1) is born with a medically verifiable genetic
7 disorder of sex development, including:

8 (A) 46, XX chromosomes with virilization;

9 (B) 46, XY chromosomes with undervirilization;

10 or

11 (C) both ovarian and testicular tissue; or

12 (2) does not have the normal sex chromosome structure
13 for male or female as determined by a physician through genetic
14 testing.

15 SECTION 2. Subchapter F, Chapter 1901, Insurance Code, is
16 amended by adding Section 1901.256 to read as follows:

17 Sec. 1901.256. PROHIBITED COVERAGE FOR PROVISION OF CERTAIN
18 GENDER-RELATED PROCEDURES AND TREATMENTS TO CERTAIN CHILDREN. A
19 professional liability insurance policy issued to a physician or
20 health care provider may not include coverage for damages assessed
21 against the physician or health care provider who provides to a
22 child gender transitioning or gender reassignment procedures or
23 treatments that are prohibited by Section 161.702, Health and
24 Safety Code.

25 SECTION 3. Section 164.052, Occupations Code, is amended by
26 amending Subsection (a) and adding Subsection (d) to read as
27 follows:

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

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

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

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

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

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

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

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

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

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

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

4 (A) fraudulently purchased or issued;

5 (B) counterfeited; or

6 (C) materially altered;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (21) performs or induces or attempts to perform or
23 induce an abortion in violation of Subchapter C, F, or G, Chapter
24 171, Health and Safety Code; [~~or~~]

25 (22) in complying with the procedures outlined in
26 Sections 166.045 and 166.046, Health and Safety Code, wilfully
27 fails to make a reasonable effort to transfer a patient to a

1 physician who is willing to comply with a directive; or
2 (23) for the purpose of facilitating the gender
3 transition or treating the gender dysphoria of an unemancipated
4 minor:

5 (A) provides, administers, prescribes, or
6 dispenses a puberty suppression or blocking prescription drug or
7 cross-sex hormone to the minor, including by writing a false or
8 fictitious prescription; or

9 (B) performs or attempts to perform a surgical
10 intervention on the minor.

11 (d) Notwithstanding Subsection (a)(23), a physician or
12 applicant for a license to practice medicine does not commit a
13 prohibited practice if the physician or applicant provides a
14 puberty suppression or blocking prescription drug to an
15 unemancipated minor for the purpose of normalizing puberty for a
16 minor experiencing precocious puberty.

17 SECTION 4. Section 1901.256, Insurance Code, as added by
18 this Act, applies only to a medical professional liability
19 insurance policy that is delivered, issued for delivery, or renewed
20 on or after January 1, 2022. An insurance policy that is delivered,
21 issued for delivery, or renewed before January 1, 2022, is governed
22 by the law in effect immediately before the effective date of this
23 Act, and that law is continued in effect for that purpose.

24 SECTION 5. Section 164.052, Occupations Code, as amended by
25 this Act, applies only to conduct that occurs on or after the
26 effective date of this Act. Conduct that occurs before the
27 effective date of this Act is governed by the law in effect on the

1 date the conduct occurred, and the former law is continued in effect
2 for that purpose.

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