

By: Shaheen

H.B. No. 1432

A BILL TO BE ENTITLED

1 AN ACT
2 relating to prohibiting certain discriminatory abortions;
3 authorizing disciplinary action; authorizing an administrative
4 penalty.

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

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

9 SUBCHAPTER A. GENERAL PROVISIONS; POST-VIABILITY ABORTION

10 PROHIBITED

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

13 SUBCHAPTER B. DISCRIMINATORY ABORTION PROHIBITED

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

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

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

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

24 Sec. 170.053. ABORTION FACILITY; ADMINISTRATIVE PENALTY.

1 The commission may impose an administrative penalty, in the amount
2 determined by the commission, against an abortion facility licensed
3 under Chapter 245 that violates Section 170.051 as if the facility
4 had violated the facility's applicable licensing law.

5 SECTION 3. Section 164.052(a), Occupations Code, is amended
6 to read as follows:

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

9 (1) submits to the board a false or misleading
10 statement, document, or certificate in an application for a
11 license;

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

14 (3) commits fraud or deception in taking or passing an
15 examination;

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

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

21 (6) uses an advertising statement that is false,
22 misleading, or deceptive;

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

26 (8) purchases, sells, barter, or uses, or offers to
27 purchase, sell, barter, or use, a medical degree, license,

1 certificate, or diploma, or a transcript of a license, certificate,
2 or diploma in or incident to an application to the board for a
3 license to practice medicine;

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

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

10 (A) fraudulently purchased or issued;

11 (B) counterfeited; or

12 (C) materially altered;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (21) performs, ~~or~~ induces, or attempts to perform or
2 induce an abortion in violation of Subchapter C, F, or G, Chapter
3 171, Health and Safety Code; ~~or~~

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

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

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

13 (b) The sanctions provided by Subsection (a) are in addition
14 to any other grounds for refusal to admit persons to examination
15 under this subtitle or to issue a license or renew a license to
16 practice medicine under this subtitle. The criminal penalties
17 provided by Section 165.152 do not apply to a violation of Section
18 170.002 or 170.051, Health and Safety Code, or Subchapter C, F, or
19 G, Chapter 171, Health and Safety Code.

20 SECTION 5. The changes in law made by this Act to Chapter
21 170, Health and Safety Code, and Chapter 164, Occupations Code,
22 apply only to an abortion performed, induced, or attempted or other
23 conduct that occurs on or after the effective date of this Act. An
24 abortion performed, induced, or attempted or other conduct that
25 occurred before that date is governed by the law in effect
26 immediately before the effective date of this Act, and that law is
27 continued in effect for that purpose.

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