

By: Toth

H.B. No. 41

A BILL TO BE ENTITLED

1 AN ACT
2 relating to professional liability insurance coverage for and
3 prohibitions on the provision to certain children of procedures and
4 treatments for gender transitioning, gender reassignment, or
5 gender dysphoria.

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

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

9 SUBCHAPTER X. GENDER TRANSITIONING AND GENDER REASSIGNMENT

10 PROCEDURES AND TREATMENTS FOR CERTAIN CHILDREN

11 Sec. 161.701. DEFINITIONS. In this subchapter:

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

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

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

21 Sec. 161.702. PROHIBITED PROVISION OF GENDER TRANSITIONING
22 OR GENDER REASSIGNMENT PROCEDURES AND TREATMENTS TO CERTAIN
23 CHILDREN. For the purpose of transitioning a child's biological
24 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 health care provider may not:

4 (1) perform a surgery to sterilize 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 health care
2 provider, with the consent of the child's parent or legal guardian,
3 of appropriate and medically necessary gender transitioning or
4 gender reassignment procedures or treatments to a child who:

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

7 (A) 46, XX chromosomes with virilization;

8 (B) 46, XY chromosomes with undervirilization;

9 or

10 (C) both ovarian and testicular tissue; or

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

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

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

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

27 (a) A physician or an applicant for a license to practice

1 medicine commits a prohibited practice if that person:

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

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

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

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

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

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

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

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

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

27 (10) uses a medical license, certificate, or diploma,

1 or a transcript of a medical license, certificate, or diploma that
2 has been:

3 (A) fraudulently purchased or issued;

4 (B) counterfeited; or

5 (C) materially altered;

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

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

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

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

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

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

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

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

27 (17) directly or indirectly aids or abets the practice

1 of medicine by a person, partnership, association, or corporation
2 that is not licensed to practice medicine by the board;

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

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

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

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

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

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

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

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

1 (23) performs or delegates to another individual the
2 performance of a pelvic examination on an anesthetized or
3 unconscious patient in violation of Section 167A.002, Health and
4 Safety Code; or

5 (24) for the purpose of facilitating the gender
6 transition or treating the gender dysphoria of an unemancipated
7 minor:

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

12 (B) performs or attempts to perform a surgical
13 intervention on the minor.

14 (d) Notwithstanding Subsection (a)(24), a physician or
15 applicant for a license to practice medicine does not commit a
16 prohibited practice if the physician or applicant provides a
17 puberty suppression or blocking prescription drug to an
18 unemancipated minor for the purpose of normalizing puberty for a
19 minor experiencing precocious puberty.

20 SECTION 4. Section 1901.256, Insurance Code, as added by
21 this Act, applies only to a medical professional liability
22 insurance policy that is delivered, issued for delivery, or renewed
23 on or after January 1, 2024. An insurance policy that is delivered,
24 issued for delivery, or renewed before January 1, 2024, is governed
25 by the law in effect immediately before the effective date of this
26 Act, and that law is continued in effect for that purpose.

27 SECTION 5. Section 164.052, Occupations Code, as amended by

1 this Act, applies only to conduct that occurs on or after the
2 effective date of this Act. Conduct that occurs before the
3 effective date of this Act is governed by the law in effect on the
4 date the conduct occurred, and the former law is continued in effect
5 for that purpose.

6 SECTION 6. This Act takes effect September 1, 2023.