

By: Toth

H.B. No. 122

A BILL TO BE ENTITLED

AN ACT

relating to professional liability insurance coverage for and prohibitions on providing to certain children procedures and treatments for gender transitioning, gender reassignment, or gender dysphoria; creating a criminal offense.

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 this state's laws 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 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. Section 161.702 does not apply

1 to the provision by a physician or health care provider, with the
2 consent of the child's parent or legal guardian, of appropriate and
3 medically necessary gender transitioning or gender reassignment
4 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; or

9 (C) both ovarian and testicular tissue; or

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

13 Sec. 161.704. CRIMINAL PENALTY. (a) A physician or health
14 care provider commits an offense if the physician or health care
15 provider violates a provision of this subchapter.

16 (b) An offense under this section is a felony of the second
17 degree.

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

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

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

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

6 (1) submits to the board a false or misleading
7 statement, document, or certificate in an application for a
8 license;

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

11 (3) commits fraud or deception in taking or passing an
12 examination;

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

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

18 (6) uses an advertising statement that is false,
19 misleading, or deceptive;

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

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

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

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

7 (A) fraudulently purchased or issued;

8 (B) counterfeited; or

9 (C) materially altered;

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

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

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

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

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

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

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

27 (16) performs or procures a criminal abortion, aids or

1 abets in the procuring of a criminal abortion, attempts to perform
2 or procure a criminal abortion, or attempts to aid or abet the
3 performance or procurement of a criminal abortion;

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

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

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

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

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

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

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

25 (21) performs or induces or attempts to perform or
26 induce an abortion in violation of Subchapter C, F, or G, Chapter
27 171, Health and Safety Code;

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

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

9 (24) to facilitate the gender transition or treat the
10 gender dysphoria of an unemancipated minor:

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

15 (B) performs or attempts to perform a surgical
16 intervention on the minor.

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

23 SECTION 4. Section 1901.256, Insurance Code, as added by
24 this Act, applies only to a medical professional liability
25 insurance policy that is delivered, issued for delivery, or renewed
26 on or after January 1, 2024. An insurance policy that is delivered,
27 issued for delivery, or renewed before January 1, 2024, is governed

1 by the law in effect immediately before the effective date of this
2 Act, and that law is continued in effect for that purpose.

3 SECTION 5. Section [164.052](#), Occupations Code, as amended by
4 this Act, applies only to conduct that occurs on or after the
5 effective date of this Act. Conduct that occurs before the
6 effective date of this Act is governed by the law in effect on the
7 date the conduct occurred, and the former law is continued in effect
8 for that purpose.

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