

1 AN ACT

2 relating to notice of and consent to an abortion for a minor and
3 associated requirements; amending provisions subject to a criminal
4 penalty.

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

6 SECTION 1. The heading to Chapter 33, Family Code, is
7 amended to read as follows:

8 CHAPTER 33. NOTICE OF AND CONSENT TO ABORTION

9 SECTION 2. Section 33.001, Family Code, is amended by
10 adding Subdivision (3-a) to read as follows:

11 (3-a) "Medical emergency" has the meaning assigned by
12 Section 171.002, Health and Safety Code.

13 SECTION 3. Section 33.002, Family Code, is amended by
14 amending Subsections (a), (e), (f), (h), and (i) and adding
15 Subsections (j), (k), and (l) to read as follows:

16 (a) A physician may not perform an abortion on a pregnant
17 unemancipated minor unless:

18 (1) the physician performing the abortion gives at
19 least 48 hours actual notice, in person or by telephone, of the
20 physician's intent to perform the abortion to:

21 (A) a parent of the minor, if the minor has no
22 managing conservator or guardian; or

23 (B) a court-appointed managing conservator or
24 guardian;

1 (2) the physician who is to perform the abortion
2 receives an order issued by a court under Section 33.003 or 33.004
3 ~~[judge of a court having probate jurisdiction, the judge of a county~~
4 ~~court at law, the judge of a district court, including a family~~
5 ~~district court, or a court of appellate jurisdiction issues an~~
6 ~~order]~~ authorizing the minor to consent to the abortion as provided
7 by Section 33.003 or 33.004; or

8 (3) ~~[a probate court, county court at law, district~~
9 ~~court, including a family district court, or court of appeals, by~~
10 ~~its inaction, constructively authorizes the minor to consent to the~~
11 ~~abortion as provided by Section 33.003 or 33.004; or~~

12 ~~(4)~~ the physician who is to perform ~~[performing]~~ the
13 abortion:

14 (A) concludes that a medical emergency exists ~~[on~~
15 ~~the basis of the physician's good faith clinical judgment, a~~
16 ~~condition exists that complicates the medical condition of the~~
17 ~~pregnant minor and necessitates the immediate abortion of her~~
18 ~~pregnancy to avert her death or to avoid a serious risk of~~
19 ~~substantial and irreversible impairment of a major bodily~~
20 ~~function]; [and]~~

21 (B) certifies in writing to the ~~[Texas]~~
22 Department of State Health Services and in the patient's medical
23 record the medical indications supporting the physician's judgment
24 that a medical emergency exists; and

25 (C) provides the notice required by Section
26 33.0022 ~~[the circumstances described by Paragraph (A) exist].~~

27 (e) The ~~[Texas]~~ Department of State Health Services shall

1 prepare a form to be used for making the certification required by
2 Subsection (a)(3)(B) [~~(a)(4)~~].

3 (f) A certification required by Subsection (a)(3)(B)
4 [~~(a)(4)~~] is confidential and privileged and is not subject to
5 disclosure under Chapter 552, Government Code, or to discovery,
6 subpoena, or other legal process. Personal or identifying
7 information about the minor, including her name, address, or social
8 security number, may not be included in a certification under
9 Subsection (a)(3)(B) [~~(a)(4)~~]. The physician must keep the medical
10 records on the minor in compliance with the rules adopted by the
11 Texas [~~State Board of~~] Medical Board [~~Examiners~~] under Section
12 [153.003](#), Occupations Code.

13 (h) It is a defense to prosecution under this section that
14 the minor falsely represented her age or identity to the physician
15 to be at least 18 years of age by displaying an apparently valid
16 proof of identity and age described by Subsection (k) [~~governmental~~
17 ~~record of identification~~] such that a reasonable person under
18 similar circumstances would have relied on the representation. The
19 defense does not apply if the physician is shown to have had
20 independent knowledge of the minor's actual age or identity or
21 failed to use due diligence in determining the minor's age or
22 identity. In this subsection, "defense" has the meaning and
23 application assigned by Section [2.03](#), Penal Code.

24 (i) In relation to the trial of an offense under this
25 section in which the conduct charged involves a conclusion made by
26 the physician under Subsection (a)(3)(A) [~~(a)(4)~~], the defendant
27 may seek a hearing before the Texas [~~State Board of~~] Medical Board

1 ~~[Examiners]~~ on whether the physician's conduct was necessary
2 because of a medical emergency ~~[to avert the death of the minor or~~
3 ~~to avoid a serious risk of substantial and irreversible impairment~~
4 ~~of a major bodily function]~~. The findings of the Texas ~~[State Board~~
5 ~~of]~~ Medical Board ~~[Examiners]~~ under this subsection are admissible
6 on that issue in the trial of the defendant. Notwithstanding any
7 other reason for a continuance provided under the Code of Criminal
8 Procedure or other law, on motion of the defendant, the court shall
9 delay the beginning of the trial for not more than 30 days to permit
10 a hearing under this subsection to take place.

11 (j) A physician shall use due diligence to determine that
12 any woman on which the physician performs an abortion who claims to
13 have reached the age of majority or to have had the disabilities of
14 minority removed has, in fact, reached the age of majority or has
15 had the disabilities of minority removed.

16 (k) For the purposes of this section, "due diligence"
17 includes requesting proof of identity and age described by Section
18 2.005(b) or a copy of the court order removing disabilities of
19 minority.

20 (l) If proof of identity and age cannot be provided, the
21 physician shall provide information on how to obtain proof of
22 identity and age. If the woman is subsequently unable to obtain
23 proof of identity and age and the physician chooses to perform the
24 abortion, the physician shall document that proof of identity and
25 age was not obtained and report to the Department of State Health
26 Services that proof of identity and age was not obtained for the
27 woman on whom the abortion was performed. The department shall

1 report annually to the legislature regarding the number of
2 abortions performed without proof of identity and age.

3 SECTION 4. Chapter 33, Family Code, is amended by adding
4 Sections 33.0021 and 33.0022 to read as follows:

5 Sec. 33.0021. CONSENT REQUIRED. A physician may not
6 perform an abortion in violation of Section 164.052(a)(19),
7 Occupations Code.

8 Sec. 33.0022. MEDICAL EMERGENCY NOTIFICATION; AFFIDAVIT
9 FOR MEDICAL RECORD. (a) If the physician who is to perform the
10 abortion concludes under Section 33.002(a)(3)(A) that a medical
11 emergency exists and that there is insufficient time to provide the
12 notice required by Section 33.002 or obtain the consent required by
13 Section 33.0021, the physician shall make a reasonable effort to
14 inform, in person or by telephone, the parent, managing
15 conservator, or guardian of the unemancipated minor within 24 hours
16 after the time a medical emergency abortion is performed on the
17 minor of:

18 (1) the performance of the abortion; and
19 (2) the basis for the physician's determination that a
20 medical emergency existed that required the performance of a
21 medical emergency abortion without fulfilling the requirements of
22 Section 33.002 or 33.0021.

23 (b) A physician who performs an abortion as described by
24 Subsection (a), not later than 48 hours after the abortion is
25 performed, shall send a written notice that a medical emergency
26 occurred and the ability of the parent, managing conservator, or
27 guardian to contact the physician for more information and medical

1 records, to the last known address of the parent, managing
2 conservator, or guardian by certified mail, restricted delivery,
3 return receipt requested. The physician may rely on last known
4 address information if a reasonable and prudent person, under
5 similar circumstances, would rely on the information as sufficient
6 evidence that the parent, managing conservator, or guardian resides
7 at that address. The physician shall keep in the minor's medical
8 record:

- 9 (1) the return receipt from the written notice; or
10 (2) if the notice was returned as undeliverable, the
11 notice.

12 (c) A physician who performs an abortion on an unemancipated
13 minor during a medical emergency as described by Subsection (a)
14 shall execute for inclusion in the medical record of the minor an
15 affidavit that explains the specific medical emergency that
16 necessitated the immediate abortion.

17 SECTION 5. Section 33.003, Family Code, is amended by
18 amending Subsections (a), (b), (c), (e), (g), (h), (i), (j), (k),
19 and (l) and adding Subsections (g-1), (i-1), (i-2), (i-3), (l-1),
20 (l-2), (o), (p), (q), and (r) to read as follows:

21 (a) A pregnant minor [~~who wishes to have an abortion without~~
22 ~~notification to one of her parents, her managing conservator, or~~
23 ~~her guardian]~~ may file an application for a court order authorizing
24 the minor to consent to the performance of an abortion without
25 notification to and consent [~~either~~] of [~~her parents or~~] a parent,
26 managing conservator, or guardian.

27 (b) The application must [~~may~~] be filed in:

1 (1) a [any] county court at law, court having probate
2 jurisdiction, or district court, including a family district court,
3 in the minor's county of residence;

4 (2) if the minor's parent, managing conservator, or
5 guardian is a presiding judge of a court described by Subdivision
6 (1):

7 (A) a county court at law, court having probate
8 jurisdiction, or district court, including a family district court,
9 in a contiguous county; or

10 (B) a county court at law, court having probate
11 jurisdiction, or district court, including a family district court,
12 in the county where the minor intends to obtain the abortion;

13 (3) if the minor's county of residence has a population
14 of less than 10,000:

15 (A) a court described by Subdivision (1);

16 (B) a county court at law, court having probate
17 jurisdiction, or district court, including a family district court,
18 in a contiguous county; or

19 (C) a county court at law, court having probate
20 jurisdiction, or district court, including a family district court,
21 in the county in which the facility at which the minor intends to
22 obtain the abortion is located; or

23 (4) a county court at law, court having probate
24 jurisdiction, or district court, including a family district court,
25 in the county in which the facility at which the minor intends to
26 obtain the abortion is located, if the minor is not a resident of
27 this state.

1 (c) The application must:

2 (1) be made under oath;

3 (2) [and] include:

4 (A) [~~(1)~~] a statement that the minor is pregnant;

5 (B) [~~(2)~~] a statement that the minor is
6 unmarried, is under 18 years of age, and has not had her
7 disabilities removed under Chapter 31;

8 (C) [~~(3)~~] a statement that the minor wishes to
9 have an abortion without the notification to and consent of [~~either~~
10 ~~of her parents or~~] a parent, managing conservator, or guardian;
11 [and]

12 (D) [~~(4)~~] a statement as to whether the minor has
13 retained an attorney and, if she has retained an attorney, the name,
14 address, and telephone number of her attorney; and

15 (E) a statement about the minor's current
16 residence, including the minor's physical address, mailing
17 address, and telephone number; and

18 (3) be accompanied by the sworn statement of the
19 minor's attorney under Subsection (r), if the minor has retained an
20 attorney to assist the minor with filing the application under this
21 section.

22 (e) The court shall appoint a guardian ad litem for the
23 minor who shall represent the best interest of the minor. If the
24 minor has not retained an attorney, the court shall appoint an
25 attorney to represent the minor. The [~~If the~~] guardian ad litem may
26 not also [~~is an attorney admitted to the practice of law in this~~
27 ~~state, the court may appoint the guardian ad litem to~~] serve as the

1 minor's attorney ad litem.

2 (g) The court shall fix a time for a hearing on an
3 application filed under Subsection (a) and shall keep a record of
4 all testimony and other oral proceedings in the action[~~. The court
5 shall enter judgment on the application immediately after the
6 hearing is concluded~~].

7 (g-1) The pregnant minor must appear before the court in
8 person and may not appear using videoconferencing, telephone
9 conferencing, or other remote electronic means.

10 (h) The court shall rule on an application submitted under
11 this section and shall issue written findings of fact and
12 conclusions of law not later than 5 p.m. on the fifth [~~second~~]
13 business day after the date the application is filed with the court.
14 On request by the minor, the court shall grant an extension of the
15 period specified by this subsection. If a request for an extension
16 is made, the court shall rule on an application and shall issue
17 written findings of fact and conclusions of law not later than 5
18 p.m. on the fifth [~~second~~] business day after the date the minor
19 states she is ready to proceed to hearing. [~~If the court fails to
20 rule on the application and issue written findings of fact and
21 conclusions of law within the period specified by this subsection,
22 the application is deemed to be granted and the physician may
23 perform the abortion as if the court had issued an order authorizing
24 the minor to consent to the performance of the abortion without
25 notification under Section 33.002.~~] Proceedings under this section
26 shall be given precedence over other pending matters to the extent
27 necessary to assure that the court reaches a decision promptly,

1 regardless of whether the minor is granted an extension under this
2 subsection.

3 (i) The court shall determine by clear and convincing [~~a~~
4 ~~preponderance of the~~] evidence, as described by Section 101.007,
5 whether:

6 (1) the minor is mature and sufficiently well informed
7 to make the decision to have an abortion performed without
8 notification to or consent of a parent, [~~either of her parents or a~~
9 ~~managing conservator,~~ or guardian; or

10 (2) the [~~whether~~] notification and attempt to obtain
11 consent would not be in the best interest of the minor [~~or whether~~
12 ~~notification may lead to physical, sexual, or emotional abuse of~~
13 ~~the minor~~].

14 (i-1) In determining whether the minor meets the
15 requirements of Subsection (i)(1), the court shall consider the
16 experience, perspective, and judgment of the minor. The court may:

17 (1) consider all relevant factors, including:

18 (A) the minor's age;

19 (B) the minor's life experiences, such as
20 working, traveling independently, or managing her own financial
21 affairs; and

22 (C) steps taken by the minor to explore her
23 options and the consequences of those options;

24 (2) inquire as to the minor's reasons for seeking an
25 abortion;

26 (3) consider the degree to which the minor is informed
27 about the state-published informational materials described by

1 Chapter 171, Health and Safety Code; and

2 (4) require the minor to be evaluated by a licensed
3 mental health counselor, who shall return the evaluation to the
4 court for review within three business days.

5 (i-2) In determining whether the notification and the
6 attempt to obtain consent would not be in the best interest of the
7 minor, the court may inquire as to:

8 (1) the minor's reasons for not wanting to notify and
9 obtain consent from a parent, managing conservator, or guardian;

10 (2) whether notification or the attempt to obtain
11 consent may lead to physical or sexual abuse;

12 (3) whether the pregnancy was the result of sexual
13 abuse by a parent, managing conservator, or guardian; and

14 (4) any history of physical or sexual abuse from a
15 parent, managing conservator, or guardian.

16 (i-3) The [~~If the court finds that the minor is mature and~~
17 ~~sufficiently well informed, that notification would not be in the~~
18 ~~minor's best interest, or that notification may lead to physical,~~
19 ~~sexual, or emotional abuse of the minor, the] court shall enter an
20 order authorizing the minor to consent to the performance of the
21 abortion without notification to and consent [~~either~~] of [~~her~~
22 ~~parents or~~] a parent, managing conservator, or guardian and shall
23 execute the required forms if the court finds by clear and
24 convincing evidence, as defined by Section 101.007, that:~~

25 (1) the minor is mature and sufficiently well informed
26 to make the decision to have an abortion performed without
27 notification to or consent of a parent, managing conservator, or

1 guardian; or

2 (2) the notification and attempt to obtain consent
3 would not be in the best interest of the minor.

4 (j) If the court finds that the minor does not meet the
5 requirements of Subsection (i-3) [~~(i)~~], the court may not authorize
6 the minor to consent to an abortion without the notification
7 authorized under Section 33.002(a)(1) and consent under Section
8 33.0021.

9 (k) The court may not notify a parent, managing conservator,
10 or guardian that the minor is pregnant or that the minor wants to
11 have an abortion. The court proceedings shall be conducted in a
12 manner that protects the confidentiality of the identity
13 [~~anonymity~~] of the minor. The application and all other court
14 documents pertaining to the proceedings are confidential and
15 privileged and are not subject to disclosure under Chapter 552,
16 Government Code, or to discovery, subpoena, or other legal process.
17 Confidential records pertaining to a minor under this subsection
18 may be disclosed to the minor [~~The minor may file the application~~
19 ~~using a pseudonym or using only her initials~~].

20 (l) An order of the court issued under this section is
21 confidential and privileged and is not subject to disclosure under
22 Chapter 552, Government Code, or discovery, subpoena, or other
23 legal process. The order may not be released to any person but the
24 pregnant minor, the pregnant minor's guardian ad litem, the
25 pregnant minor's attorney, the physician who is to perform the
26 abortion, another person designated to receive the order by the
27 minor, or a governmental agency or attorney in a criminal or

1 administrative action seeking to assert or protect the interest of
2 the minor. The supreme court may adopt rules to permit confidential
3 docketing of an application under this section.

4 (1-1) The clerk of the court, at intervals prescribed by the
5 Office of Court Administration of the Texas Judicial System, shall
6 submit a report to the office that includes, for each case filed
7 under this section:

8 (1) the case number and style;

9 (2) the applicant's county of residence;

10 (3) the court of appeals district in which the
11 proceeding occurred;

12 (4) the date of filing;

13 (5) the date of disposition; and

14 (6) the disposition of the case.

15 (1-2) The Office of Court Administration of the Texas
16 Judicial System shall annually compile and publish a report
17 aggregating the data received under Subsections (1-1)(3) and (6).
18 A report submitted under Subsection (1-1) is confidential and
19 privileged and is not subject to disclosure under Chapter 552,
20 Government Code, or to discovery, subpoena, or other legal process.
21 A report under this subsection must protect the confidentiality of:

22 (1) the identity of all minors and judges who are the
23 subject of the report; and

24 (2) the information described by Subsection (1-1)(1).

25 (o) A minor who has filed an application under this section
26 may not withdraw or otherwise non-suit her application without the
27 permission of the court.

1 (p) Except as otherwise provided by Subsection (g), a minor
2 who has filed an application and has obtained a determination by the
3 court as described by Subsection (i) may not initiate a new
4 application proceeding and the prior proceeding is res judicata of
5 the issue relating to the determination of whether the minor may or
6 may not be authorized to consent to the performance of an abortion
7 without notification to and consent of a parent, managing
8 conservator, or guardian.

9 (q) A minor whose application is denied may subsequently
10 submit an application to the court that denied the application if
11 the minor shows that there has been a material change in
12 circumstances since the time the court denied the application.

13 (r) An attorney retained by the minor to assist her in
14 filing an application under this section shall fully inform himself
15 or herself of the minor's prior application history, including the
16 representations made by the minor in the application regarding her
17 address, proper venue in the county in which the application is
18 filed, and whether a prior application has been filed and
19 initiated. If an attorney assists the minor in the application
20 process in any way, with or without payment, the attorney
21 representing the minor must attest to the truth of the minor's
22 claims regarding the venue and prior applications in a sworn
23 statement.

24 SECTION 6. Section 33.004, Family Code, is amended by
25 amending Subsections (b) and (f) and adding Subsection (c-1) to
26 read as follows:

27 (b) The court of appeals shall rule on an appeal under this

1 section not later than 5 p.m. on the fifth [~~second~~] business day
2 after the date the notice of appeal is filed with the court that
3 denied the application. On request by the minor, the court shall
4 grant an extension of the period specified by this subsection. If a
5 request for an extension is made, the court shall rule on the appeal
6 not later than 5 p.m. on the fifth [~~second~~] business day after the
7 date the minor states she is ready to proceed. [~~If the court of
8 appeals fails to rule on the appeal within the period specified by
9 this subsection, the appeal is deemed to be granted and the
10 physician may perform the abortion as if the court had issued an
11 order authorizing the minor to consent to the performance of the
12 abortion without notification under Section 33.002.~~] Proceedings
13 under this section shall be given precedence over other pending
14 matters to the extent necessary to assure that the court reaches a
15 decision promptly, regardless of whether the minor is granted an
16 extension under this subsection.

17 (c-1) Notwithstanding Subsection (c), the court of appeals
18 may publish an opinion relating to a ruling under this section if
19 the opinion is written in a way to preserve the confidentiality of
20 the identity of the pregnant minor.

21 (f) An expedited confidential appeal shall be available to
22 any pregnant minor to whom a court of appeals denies an application
23 to authorize [~~order authorizing~~] the minor to consent to the
24 performance of an abortion without notification to or consent of
25 [~~either of her parents or~~] a parent, managing conservator, or
26 guardian.

27 SECTION 7. Chapter 33, Family Code, is amended by adding

1 Section 33.0065 to read as follows:

2 Sec. 33.0065. RECORDS. The clerk of the court shall retain
3 the records for each case before the court under this chapter in
4 accordance with rules for civil cases and grant access to the
5 records to the minor who is the subject of the proceeding.

6 SECTION 8. Section 33.008, Family Code, is amended to read
7 as follows:

8 Sec. 33.008. PHYSICIAN'S DUTY TO REPORT ABUSE OF A MINOR;
9 INVESTIGATION AND ASSISTANCE. (a) If a minor claims to have been
10 physically or sexually abused or a [A] physician or physician's
11 agent [who] has reason to believe that a minor has been [or may be]
12 physically or sexually abused [by a person responsible for the
13 minor's care, custody, or welfare, as that term is defined by
14 Section 261.001], the physician or physician's agent shall
15 immediately report the suspected abuse and the name of the abuser to
16 the Department of Family and Protective Services and to a local law
17 enforcement agency and shall refer the minor to the department for
18 services or intervention that may be in the best interest of the
19 minor. The local law enforcement agency shall respond and shall
20 write a report within 24 hours of being notified of the alleged
21 abuse. A report shall be made regardless of whether the local law
22 enforcement agency knows or suspects that a report about the abuse
23 may have previously been made.

24 (b) The appropriate local law enforcement agency and the
25 Department of Family and Protective Services shall investigate
26 suspected abuse reported under this section and, if warranted
27 [appropriate], shall refer the case to the appropriate prosecuting

1 authority [~~assist the minor in making an application with a court~~
2 ~~under Section 33.003~~].

3 (c) When the local law enforcement agency responds to the
4 report of physical or sexual abuse as required by Subsection (a), a
5 law enforcement officer or appropriate agent from the Department of
6 Family and Protective Services may take emergency possession of the
7 minor without a court order to protect the health and safety of the
8 minor as described by Chapter 262.

9 SECTION 9. Chapter 33, Family Code, is amended by adding
10 Section 33.0085 to read as follows:

11 Sec. 33.0085. DUTY OF JUDGE OR JUSTICE TO REPORT ABUSE OF
12 MINOR. (a) Notwithstanding any other law, a judge or justice who,
13 as a result of court proceedings conducted under Section 33.003 or
14 33.004, has reason to believe that a minor has been or may be
15 physically or sexually abused shall:

16 (1) immediately report the suspected abuse and the
17 name of the abuser to the Department of Family and Protective
18 Services and to a local law enforcement agency; and

19 (2) refer the minor to the department for services or
20 intervention that may be in the best interest of the minor.

21 (b) The appropriate local law enforcement agency and the
22 Department of Family and Protective Services shall investigate
23 suspected abuse reported under this section and, if warranted,
24 shall refer the case to the appropriate prosecuting authority.

25 SECTION 10. Section 33.010, Family Code, is amended to read
26 as follows:

27 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other

1 law, information obtained by the Department of Family and
2 Protective Services or another entity under Section 33.008,
3 33.0085, or 33.009 is confidential except to the extent necessary
4 to prove a violation of Section 21.02, 22.011, 22.021, or 25.02,
5 Penal Code.

6 SECTION 11. Chapter 33, Family Code, is amended by adding
7 Sections 33.012, 33.013, and 33.014 to read as follows:

8 Sec. 33.012. CIVIL PENALTY. (a) A person who is found to
9 have intentionally, knowingly, recklessly, or with gross
10 negligence violated this chapter is liable to this state for a civil
11 penalty of not less than \$2,500 and not more than \$10,000.

12 (b) Each performance or attempted performance of an
13 abortion in violation of this chapter is a separate violation.

14 (c) A civil penalty may not be assessed against:

15 (1) a minor on whom an abortion is performed or
16 attempted; or

17 (2) a judge or justice hearing a court proceeding
18 conducted under Section 33.003 or 33.004.

19 (d) It is not a defense to an action brought under this
20 section that the minor gave informed and voluntary consent.

21 (e) The attorney general shall bring an action to collect a
22 penalty under this section.

23 Sec. 33.013. CAPACITY TO CONSENT. An unemancipated minor
24 does not have the capacity to consent to any action that violates
25 this chapter.

26 Sec. 33.014. ATTORNEY GENERAL TO ENFORCE. The attorney
27 general shall enforce this chapter.

1 SECTION 12. Section 245.006(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) The department shall inspect an abortion facility at
4 random, unannounced, and reasonable times as necessary to ensure
5 compliance with this chapter, ~~and~~ Subchapter B, Chapter 171, and
6 Chapter 33, Family Code.

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

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

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

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

16 (3) commits fraud or deception in taking or passing an
17 examination;

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

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

23 (6) uses an advertising statement that is false,
24 misleading, or deceptive;

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

1 (8) purchases, sells, barter, or uses, or offers to
2 purchase, sell, barter, or use, a medical degree, license,
3 certificate, or diploma, or a transcript of a license, certificate,
4 or diploma in or incident to an application to the board for a
5 license to practice medicine;

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

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

12 (A) fraudulently purchased or issued;

13 (B) counterfeited; or

14 (C) materially altered;

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

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

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

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

26 (15) associates in the practice of medicine with a
27 person:

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

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

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

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

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

15 (A) the abortion is necessary to prevent the
16 death of the woman;

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

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

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

1 (20) otherwise performs an abortion on an
2 unemancipated minor in violation of Chapter 33, Family Code [
3 authorizing the minor to consent to the abortion, unless the
4 physician concludes that on the basis of the physician's good faith
5 clinical judgment, a condition exists that complicates the medical
6 condition of the pregnant minor and necessitates the immediate
7 abortion of her pregnancy to avert her death or to avoid a serious
8 risk of substantial impairment of a major bodily function and that
9 there is insufficient time to obtain the consent of the child's
10 parent, managing conservator, or legal guardian]; or

11 (21) [(20)] performs or induces or attempts to perform
12 or induce an abortion in violation of Subchapter C, Chapter 171,
13 Health and Safety Code.

14 SECTION 14. (a) Section 33.002, Family Code, as amended by
15 this Act, applies only to an offense committed on or after the
16 effective date of this Act. An offense committed before the
17 effective date of this Act is governed by the law in effect on the
18 date the offense was committed, and the former law is continued in
19 effect for that purpose. For purposes of this section, an offense
20 was committed before the effective date of this Act if any element
21 of the offense occurred before that date.

22 (b) Sections 33.003 and 33.004, Family Code, as amended by
23 this Act, apply only to an application filed on or after the
24 effective date of this Act. An application filed before the
25 effective date of this Act is governed by the law in effect on the
26 date the application was filed, and the former law is continued in
27 effect for that purpose.

1 (c) The Office of Court Administration of the Texas Judicial
2 System is not required to publish the initial report under Section
3 33.003(1-2), Family Code, as added by this Act, before January 1,
4 2017.

5 SECTION 15. Section 33.012, Family Code, as added by this
6 Act, applies only to a cause of action that accrues on or after the
7 effective date of this Act. A cause of action that accrues before
8 the effective date of this Act is governed by the law in effect
9 immediately before that date, and that law is continued in effect
10 for that purpose.

11 SECTION 16. Every provision in this Act and every
12 application of the provisions in this Act are severable from each
13 other. If any application of any provision in this Act to any
14 person or group of persons or circumstances is found by a court to
15 be invalid, the remainder of this Act and the application of the
16 Act's provisions to all other persons and circumstances may not be
17 affected. All constitutionally valid applications of this Act
18 shall be severed from any applications that a court finds to be
19 invalid, leaving the valid applications in force, because it is the
20 legislature's intent and priority that the valid applications be
21 allowed to stand alone. Even if a reviewing court finds a provision
22 of this Act invalid in a large or substantial fraction of relevant
23 cases, the remaining valid applications shall be severed and
24 allowed to remain in force.

25 SECTION 17. This Act takes effect January 1, 2016.

President of the Senate

Speaker of the House

I certify that H.B. No. 3994 was passed by the House on May 14, 2015, by the following vote: Yeas 93, Nays 46, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3994 on May 29, 2015, by the following vote: Yeas 102, Nays 43, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3994 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

APPROVED: _____

Date

Governor