

Texas Medical Board Press Release

FOR IMMEDIATE RELEASE

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TMB provides clarification on rules regarding exceptions to the ban on abortions

The Texas Medical Board today adopted amendments to 22 TAC 165 by adding Subchapter B, new rule section 165.7-165.9 concerning Exceptions to the Abortion Ban.

For complete text of the rule visit: <https://www.tmb.state.tx.us/page/board-rules>.

Statement from TMB President Dr. Sherif Zaafran, M.D., FASA

“Since our last Board meeting in March, we have received hundreds of comments from private citizens, physicians, professional associations and private organizations. On behalf of the Board, I want to thank everyone who has participated in this process. We appreciate that this is a very emotional, highly personal issue and subject to exceptionally differing viewpoints.

“Thanks to robust feedback, along with thoroughly analyzing the Administrative Procedures Act, the Health and Safety Code, and recent court cases involving multiple provisions of the state’s regulations, the TMB Board has adopted these final rules that fully capture the Board’s intent and are written within the bounds, and definitions, of existing statutes to clarify what required criteria the Board expects to consider in the event it receives a related complaint.

“The adopted version of the rules specifically addresses concerns that references to ectopic pregnancy better track with existing statutory references on the matter. Additionally, the rule stresses that lack of imminent risk of death or substantial impairment to a patient should not preclude a physician from doing what is medically necessary. Finally, the rule reaffirms that documentation in the medical records of a physician’s actions and reasoning should be done in a manner that helps explain actions taken, but not slow down or preempt what may need to be done quickly to save the life of a woman. As always, medical records can be completed after action is taken to save the life of a patient or prevent substantial impairment in emergency situations.

“The Board also received requests to change or add various definitions that do not exist in statute. However, as we have stated on multiple occasions, the Board does not have the authority to unilaterally add any exceptions or expand statutory definitions. These actions require legislative intervention.

“Also, there have been a multitude of comments asking for a list of medical conditions that would allow for an abortion. However, as I have previously stressed, because each patient and their presenting condition is unique, any list would be incomplete and not necessarily applicable to a given medical situation. It would be problematic if a condition that was appropriate but was not specifically listed occurred. The absence of that specific condition being listed may give physicians the false impression that its absence precludes their ability to take lifesaving and/or critical measures to prevent substantial impairment. Again, the use of “reasonable medical judgment” does not lend itself to a list or formula but rather is completely and fully dependent on

the condition of the patient, the location and the circumstances surrounding that specific event, as well as the skill, training, and knowledge of the treating physician.

“The Board acknowledges and respects that this rule may not answer the concerns and questions that arise in every single situation. The reality is that the Board can only act where it has the authority to provide rules within the confines of the law. However, we do feel that the adopted rules provide physicians with valuable guidance on how they can successfully navigate any complaints the agency may receive related to abortion care they may provide.”

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