



**Texas Catholic
Conference of Bishops**
THE PUBLIC POLICY VOICE OF THE CHURCH

**Catholic
Health
Association
of Texas**

April 29, 2024

RE: The Texas Medical Board proposed rule changes 22 TAC §§165.7 – 167.9

Sent via email to: Rule.165@tmb.state.tx.us

Dear General Counsel Freshour,

On behalf of the Texas Catholic Conference of Bishops and the Catholic Health Association of Texas, I would like to thank the Texas Medical Board for proposing rules to guide licensees to ensure appropriate medical care is provided to mothers facing pregnancy complications. In the summer of 2022, the TCCB, in consultation with Catholic bioethicists, published clarifications on the treatment of pregnancy complications in view of the new Texas law prohibiting elective abortions. We understood that confusion among healthcare providers regarding the legal definition of abortion could lead to unnecessary delays in treatment of women experiencing pregnancy complications or miscarriages, stemming from doctors' fear of running afoul of the law. We have been advocating since then for the state to assist in the education of physicians on the new statute.

Women seeking treatment for high-risk pregnancies, or who have lost or are in the process of losing their unborn babies, should not ever experience a delay in care or be subjected to undue mental and emotional strain caused by a physician's uncertainty regarding what course of treatment is permissible under Texas law. Yet confusion persists about what the law requires, in part because the provisions are spread among several different chapters.

The proposed rules restate Texas laws permitting treatments intended to preserve the health of the pregnant woman that are consistent with the standard of care and the law. As the board indicated in the introduction, the proposed rules “do not create new regulations”, “do not repeal existing regulations”, and “do not expand or limit an existing regulation” which would be outside their authority. However, we strongly encourage the board to consider another relevant statute, Chapter 74, Civil Practice and Remedies Code, subchapter L which addresses civil and criminal liability, apropos to §165.9. *Complaints Regarding Abortions Performed.*

Section 74.552 of the Civil Practice and Remedies Code states that it is an affirmative defense to liability in a civil action brought against a physician or health care provider for a violation of Section 170A.002, Health and Safety Code, including an action to recover a civil penalty under Section 170A.005, Health and Safety Code, that the physician or health care provider exercised reasonable medical judgment in providing medical treatment to a pregnant woman in response to an ectopic pregnancy at any location or a previable premature rupture of membranes. Including this section in the proposed rules regarding investigations of disciplinary actions will educate licensees on these defenses and provide them with more assurance that they are acting within the scope of the law.

While we understand the board's intent with the documentation requirements in the rules, we believe existing statutory standards are sufficient. Physicians must be allowed discretion to document in a manner appropriate for individual patients and their health needs.

Catholic hospitals throughout the world have provided lifesaving care to women experiencing pregnancy complications while respecting the sanctity of all human life in accordance with Church teaching and the Ethical and Religious Directives for Catholic Health Care Services. Based on decades of experience, we know that it is possible to provide quality, holistic care in a manner that ensures the best outcome for both mothers and their babies.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jennifer Allmon".

Jennifer Allmon
Executive Director
Texas Catholic Conference of Bishops