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To: Public Health and
Welfare

SENATE BILL NO. 2116
(As Sent to Governor)

1 AN ACT TO CREATE NEW SECTION 41-41-34.1, MISSISSIPPI CODE OF
2 1972, TO PROHIBIT AN ABORTION OF AN UNBORN HUMAN INDIVIDUAL WITH A
3 DETECTABLE FETAL HEARTBEAT EXCEPT TO PREVENT THE DEATH OF THE
4 PREGNANT WOMAN OR TO PREVENT A SERIOUS RISK OF THE SUBSTANTIAL AND
5 IRREVERSIBLE IMPAIRMENT OF A MAJOR BODILY FUNCTION OF THE WOMAN;
6 TO AMEND SECTION 73-25-29, MISSISSIPPI CODE OF 1972, TO PROVIDE
7 THAT A PHYSICIAN PERFORMING AN ABORTION ON A PREGNANT WOMAN AFTER
8 DETERMINING THAT THE UNBORN HUMAN INDIVIDUAL HAS A DETECTABLE
9 FETAL HEARTBEAT IS SUBJECT TO LICENSE REVOCATION OR DISCIPLINARY
10 ACTION; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 **SECTION 1.** The following provision shall be codified as
13 Section 41-41-34.1, Mississippi Code of 1972:

14 41-41-34.1. (1) As used in this section:

15 (a) "Fetal heartbeat" means cardiac activity or the
16 steady and repetitive rhythmic contraction of the fetal heart
17 within the gestational sac.

18 (b) "Physician" means a person licensed to practice
19 medicine under Section 73-25-1 et seq.

20 (c) "Unborn human individual" means an individual
21 organism of the species homo sapiens from fertilization until live
22 birth.



23 (2) (a) Except as provided in paragraph (b) or (c) of this
24 subsection (2), no person shall knowingly perform an abortion on a
25 pregnant woman with the specific intent of causing or abetting the
26 termination of the life of the unborn human individual that the
27 pregnant woman is carrying and whose fetal heartbeat has been
28 detected. Any person who acts based on the exception in paragraph
29 (b) or (c) of this subsection (2) shall so note in the pregnant
30 woman's medical records and shall specify in the pregnant woman's
31 medical records which of the exceptions the person invoked.

32 (b) (i) A person is not in violation of paragraph (a)
33 of this subsection (2) if that person performs a medical procedure
34 designed to or intended, in that person's reasonable medical
35 judgment, to prevent the death of a pregnant woman or to prevent a
36 serious risk of the substantial and irreversible impairment of a
37 major bodily function of the pregnant woman.

38 (ii) Any person who performs a medical procedure
39 as described in paragraph (b) (i) of this subsection (2) shall
40 declare in writing, under penalty of perjury, that the medical
41 procedure was necessary, to the best of that person's reasonable
42 medical judgment, to prevent the death of the pregnant woman or to
43 prevent a serious risk of the substantial and irreversible
44 impairment of a major bodily function of the pregnant woman. That
45 person shall also provide in that written document, under penalty
46 of perjury, the medical condition of that pregnant woman that the
47 medical procedure performed as described in paragraph (b) (i) of



48 this subsection (2) will assertedly address, and the medical
49 rationale for the conclusion that the medical procedure was
50 necessary to prevent the death of the pregnant woman or to prevent
51 a serious risk of the substantial and irreversible impairment of a
52 major bodily function of the pregnant woman.

53 (iii) The person who performs a medical procedure
54 as described in paragraph (b) (i) of this subsection (2) shall
55 place the written documentation required under paragraph (b) (ii)
56 of this subsection (2) in the pregnant woman's medical records,
57 and shall maintain a copy of the written documentation in the
58 person's own records for at least seven (7) years.

59 (c) A person is not in violation of paragraph (a) of
60 this subsection (2) if that person has performed an examination
61 for the presence of a fetal heartbeat in the unborn human
62 individual using standard medical practice and that examination
63 does not reveal a fetal heartbeat or the person has been informed
64 by a physician who has performed the examination for a fetal
65 heartbeat that the examination did not reveal a fetal heartbeat.

66 (d) This subsection (2) does not repeal any other
67 provision of the Mississippi Code that restricts or regulates the
68 performance of an abortion by a particular method or during a
69 particular stage of a pregnancy.

70 (e) Any person who violates this subsection (2) is
71 guilty of performing an abortion after the detection of a fetal
72 heartbeat, a violation punishable as provided in Section 41-41-39.



73 **SECTION 2.** Section 73-25-29, Mississippi Code of 1972, is
74 amended as follows:

75 73-25-29. The grounds for the nonissuance, suspension,
76 revocation or restriction of a license or the denial of
77 reinstatement or renewal of a license are:

78 (1) Habitual personal use of narcotic drugs, or any
79 other drug having addiction-forming or addiction-sustaining
80 liability.

81 (2) Habitual use of intoxicating liquors, or any
82 beverage, to an extent which affects professional competency.

83 (3) Administering, dispensing or prescribing any
84 narcotic drug, or any other drug having addiction-forming or
85 addiction-sustaining liability otherwise than in the course of
86 legitimate professional practice.

87 (4) Conviction of violation of any federal or state law
88 regulating the possession, distribution or use of any narcotic
89 drug or any drug considered a controlled substance under state or
90 federal law, a certified copy of the conviction order or judgment
91 rendered by the trial court being prima facie evidence thereof,
92 notwithstanding the pendency of any appeal.

93 (5) Procuring, or attempting to procure, or aiding in,
94 an abortion that is not medically indicated.

95 (6) Conviction of a felony or misdemeanor involving
96 moral turpitude, a certified copy of the conviction order or



97 judgment rendered by the trial court being prima facie evidence
98 thereof, notwithstanding the pendency of any appeal.

99 (7) Obtaining or attempting to obtain a license by
100 fraud or deception.

101 (8) Unprofessional conduct, which includes, but is not
102 limited to:

103 (a) Practicing medicine under a false or assumed
104 name or impersonating another practitioner, living or dead.

105 (b) Knowingly performing any act which in any way
106 assists an unlicensed person to practice medicine.

107 (c) Making or willfully causing to be made any
108 flamboyant claims concerning the licensee's professional
109 excellence.

110 (d) Being guilty of any dishonorable or unethical
111 conduct likely to deceive, defraud or harm the public.

112 (e) Obtaining a fee as personal compensation or
113 gain from a person on fraudulent representation of a disease or
114 injury condition generally considered incurable by competent
115 medical authority in the light of current scientific knowledge and
116 practice can be cured or offering, undertaking, attempting or
117 agreeing to cure or treat the same by a secret method, which he
118 refuses to divulge to the board upon request.

119 (f) Use of any false, fraudulent or forged
120 statement or document, or the use of any fraudulent, deceitful,
121 dishonest or immoral practice in connection with any of the



122 licensing requirements, including the signing in his professional
123 capacity any certificate that is known to be false at the time he
124 makes or signs such certificate.

125 (g) Failing to identify a physician's school of
126 practice in all professional uses of his name by use of his earned
127 degree or a description of his school of practice.

128 (9) The refusal of a licensing authority of another
129 state or jurisdiction to issue or renew a license, permit or
130 certificate to practice medicine in that jurisdiction or the
131 revocation, suspension or other restriction imposed on a license,
132 permit or certificate issued by such licensing authority which
133 prevents or restricts practice in that jurisdiction, a certified
134 copy of the disciplinary order or action taken by the other state
135 or jurisdiction being prima facie evidence thereof,
136 notwithstanding the pendency of any appeal.

137 (10) Surrender of a license or authorization to
138 practice medicine in another state or jurisdiction or surrender of
139 membership on any medical staff or in any medical or professional
140 association or society while under disciplinary investigation by
141 any of those authorities or bodies for acts or conduct similar to
142 acts or conduct which would constitute grounds for action as
143 defined in this section.

144 (11) Final sanctions imposed by the United States
145 Department of Health and Human Services, Office of Inspector
146 General or any successor federal agency or office, based upon a



147 finding of incompetency, gross misconduct or failure to meet
148 professionally recognized standards of health care; a certified
149 copy of the notice of final sanction being prima facie evidence
150 thereof. As used in this paragraph, the term "final sanction"
151 means the written notice to a physician from the United States
152 Department of Health and Human Services, Officer of Inspector
153 General or any successor federal agency or office, which
154 implements the exclusion.

155 (12) Failure to furnish the board, its investigators or
156 representatives information legally requested by the board.

157 (13) Violation of any provision(s) of the Medical
158 Practice Act or the rules and regulations of the board or of any
159 order, stipulation or agreement with the board.

160 (14) Violation(s) of the provisions of Sections
161 41-121-1 through 41-121-9 relating to deceptive advertisement by
162 health care practitioners.

163 (15) Performing or inducing an abortion on a woman in
164 violation of any provision of Sections 41-41-131 through
165 41-41-145.

166 (16) Performing an abortion on a pregnant woman after
167 determining that the unborn human individual that the pregnant
168 woman is carrying has a detectable fetal heartbeat as provided in
169 Section 41-41-34.1.

170 In addition to the grounds specified above, the board shall
171 be authorized to suspend the license of any licensee for being out



172 of compliance with an order for support, as defined in Section
173 93-11-153. The procedure for suspension of a license for being
174 out of compliance with an order for support, and the procedure for
175 the reissuance or reinstatement of a license suspended for that
176 purpose, and the payment of any fees for the reissuance or
177 reinstatement of a license suspended for that purpose, shall be
178 governed by Section 93-11-157 or 93-11-163, as the case may be.
179 If there is any conflict between any provision of Section
180 93-11-157 or 93-11-163 and any provision of this chapter, the
181 provisions of Section 93-11-157 or 93-11-163, as the case may be,
182 shall control.

183 **SECTION 3.** This act shall take effect and be in force from
184 and after July 1, 2019.

