

1 State of Arkansas
2 92nd General Assembly
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4

As Engrossed: H2/20/19

A Bill

HOUSE BILL 1453

5 By: Representatives Penzo, Lundstrum, Breaux, Brown, Christiansen, Coleman, C. Cooper, Crawford,
6 Evans, Hollowell, Maddox, J. Mayberry, Payton, Pilkington, Rye, B. Smith, Sullivan
7 By: Senator K. Hammer
8

For An Act To Be Entitled

9
10 AN ACT TO CREATE THE PERINATAL *PALLIATIVE CARE*
11 INFORMATION ACT; AND FOR OTHER PURPOSES.
12
13

Subtitle

14
15 *TO CREATE THE PERINATAL PALLIATIVE CARE*
16 *INFORMATION ACT.*
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 20, Chapter 16, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 20 – Perinatal Palliative Care Information Act

24
25 20-16-2001. Title.

26 This subchapter shall be known and may be cited as the "Perinatal
27 Palliative Care Information Act".
28

29 20-16-2002. Legislative findings and purpose.

30 (a) The General Assembly finds that:

31 (1) As diagnosis of prenatal conditions improve, more lethal
32 fetal anomalies are diagnosed earlier in pregnancy;

33 (2)(A) Currently, parents are often given minimal options.

34 (B) Parents must choose between terminating the pregnancy
35 or simply waiting for the child to die;

36 (3) The majority of parents in situation as described in



1 subdivision (a)(2) of this section choose to terminate the pregnancy with
2 only twenty percent (20%) of parents deciding to continue the pregnancy;

3 (4) Studies indicate that choosing to terminate a pregnancy can
4 pose severe long-term psychological risks for a woman including the risk of
5 post-traumatic stress, depression, and anxiety;

6 (5) Parents who choose to continue the pregnancy under a
7 supportive, compassionate care of a perinatal palliative care team report
8 being emotionally and spiritually prepared for the birth of a child; and

9 (6) Studies reveal that when given the option, at least eighty
10 to eighty-seven percent (80-87%) of parents choose to continue their
11 pregnancies in a supportive environment of perinatal palliative care.

12 (b) It is the purpose of this subchapter to:

13 (1) Guarantee that a woman considering an abortion after a
14 diagnosis of a lethal fetal anomaly is presented with information on the
15 option of perinatal palliative care; and

16 (2) Ensure that any abortion choice that a woman makes has been
17 fully informed.

18
19 20-16-2003. Definitions.

20 As used in this subchapter:

21 (1)(A) "Abortion" means the act of using or prescribing any
22 instrument, medicine, drug, or any other substance, device, or means with the
23 intent to terminate the clinically diagnosable pregnancy of a woman, with
24 knowledge that the termination by any of those means will with reasonable
25 likelihood cause the death of the unborn child.

26 (B) An act under subdivision (1)(A) of this section is not
27 an abortion if the act is performed with the intent to:

28 (i) Save the life or preserve the health of the
29 unborn child;

30 (ii) Remove a dead unborn child caused by
31 spontaneous abortion; or

32 (iii) Remove an ectopic pregnancy;

33 (2) "Lethal fetal anomaly" means a fetal condition diagnosed
34 before birth that will result in the death of the unborn child with
35 reasonable certainty within three (3) months of the birth;

36 (3) "Medical emergency" means based on the good faith clinical

1 judgment of the physician, a condition that complicated the medical condition
2 of the pregnant woman as to necessitate the immediate termination of the
3 pregnancy to avert her death or for which a delay will create a serious risk
4 of substantial and irreversible impairment of a major bodily function;

5 (4)(A) "Perinatal palliative care" means comprehensive support
6 to the pregnant woman and her family that includes support from the time of
7 diagnosis, through the time of birth and the death of the infant, and through
8 the postpartum period.

9 (B) "Perinatal palliative care" may include without
10 limitation counseling and medical care by maternal-fetal medical specialists,
11 obstetricians, neonatologists, anesthesia specialists, clergy, social
12 workers, and specialty nurses focused on alleviating fear and ensuring that
13 the woman and her family experience the life and death of the child in a
14 comfortable and supportive environment; and

15 (5) "Physician" means a person licensed to practice medicine in
16 this state, including a medical doctor and a doctor of osteopathy.

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18 20-16-2004. Informed consent for abortion to include perinatal
19 palliative care information.

20 (a) Except in the case of a medical emergency, consent to an abortion
21 when the unborn child has been diagnosed with a lethal fetal anomaly is
22 voluntary and informed only if at least seventy-two (72) hours before the
23 abortion:

24 (1) The physician performing the abortion has verbally informed
25 the pregnant woman that perinatal palliative care services are available and
26 has offered perinatal palliative care services as an alternative to abortion;
27 and

28 (2) The pregnant woman is given a list of perinatal palliative
29 care services available both in the state and nationally that is prepared by
30 the Department of Health and organized geographically by location.

31 (b) If the pregnant woman declines perinatal palliative care services,
32 the pregnant woman shall certify in writing that:

33 (1) She declines the perinatal palliative care services; and

34 (2) She has received the materials described in subdivision
35 (a)(2) of this section.

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20-16-2005. Professional sanctions.

(a) A violation of this subchapter shall constitute unprofessional conduct and shall result in the revocation of a physician's license to practice medicine.

(b) A violation of this subchapter may be used as the basis for:

(1) Denying an application for licensure, certification, permit, registration, or other form of permission required to practice or engage in a trade, occupation, or profession;

(2) Denying an application for renewal of licensure, certification, permit, registration, or other form of permission required to practice or engage in a trade, occupation, or profession; and

(3) Revoking a licensure, certification, permit, registration, or other form of permission required to practice or engage in a trade, occupation, or profession.

20-16-2006. Right of intervention.

The General Assembly by joint resolution may appoint one (1) or more of its members who sponsored or cosponsored this subchapter in his or her official capacity to intervene as a matter of right in any case in which the constitutionality of this subchapter is challenged.

SECTION 2. DO NOT CODIFY. Publication of materials.

The Department of Health shall publish or cause to be published the printed materials described in § 20-16-2004 in English, Spanish, and any other appropriate languages within ninety (90) days of the effective date of this act.

/s/Penzo

APPROVED: 4/12/19