

By: Senator(s) Fillingane

To: Public Health and Welfare

SENATE BILL NO. 2807

1 AN ACT TO PROHIBIT A PHYSICIAN FROM PERFORMING AN ABORTION ON
2 A PREGNANT WOMAN WHERE THE UNBORN HUMAN INDIVIDUAL'S HEARTBEAT HAS
3 BEEN DETECTED AND THE UNBORN HUMAN INDIVIDUAL IS TWELVE WEEKS OR
4 GREATER GESTATION AND TO PROVIDE THAT A VIOLATION OF THIS
5 PROHIBITION SHALL RESULT IN THE REVOCATION OF THE MEDICAL LICENSE
6 OF THE PHYSICIAN; TO AMEND SECTION 73-25-29, MISSISSIPPI CODE OF
7 1972, INCONFORMITY; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) **Prohibitions.** A person authorized to
10 perform an abortion, as defined in Section 41-41-45, under
11 Mississippi law shall not perform an abortion on a pregnant woman
12 with the specific intent of causing or abetting the termination of
13 the life of an unborn human individual whose heartbeat has been
14 detected under Section 41-41-34 and is twelve (12) weeks or
15 greater gestation.

16 (2) A violation of this section as determined by the
17 Mississippi Board of Medical Licensure shall result in the
18 revocation of the medical license of the person authorized to
19 perform abortions under Mississippi law, as provided in Section
20 73-25-29.



21 (3) **Exemptions.** (a) A person does not violate this section
22 if the person:

23 (i) Performs a medical procedure designed to or
24 intended to prevent the death of a pregnant woman or in reasonable
25 medical judgment to preserve the life of the pregnant woman; or

26 (ii) Has undertaken an examination for the
27 presence of a heartbeat in the fetus utilizing standard medical
28 practice; and

29 (iii) The examination does not reveal a heartbeat;

30 or

31 (iv) Has been informed by a medical professional
32 who has undertaken the examination for fetal heartbeat that the
33 examination did not reveal a fetal heartbeat.

34 (b) This section does not apply to:

35 (i) An abortion performed to save the life of the
36 mother;

37 (ii) A pregnancy that results from rape or incest;

38 or

39 (iii) A "Medical emergency" means a condition in
40 which an abortion is necessary:

41 1. To preserve the life of the pregnant woman
42 whose life is endangered by a physical disorder, physical illness,
43 or physical injury, including a life-endangering physical
44 condition caused by or arising from the pregnancy itself, or when
45 continuation of the pregnancy will create a serious risk of



46 substantial and irreversible impairment of a major bodily function
47 of the pregnant woman; or

48 2. Due to the existence of a highly lethal
49 fetal disorder as defined by the Mississippi Board of Medical
50 Licensure.

51 (4) **Interpretation.** This section does not:

52 (a) Subject a pregnant female on whom an abortion is
53 performed or attempted to be performed to any criminal prosecution
54 or civil penalty; or

55 (b) Prohibit the sale, use, prescription, or
56 administration of a measure, drug, or chemical designed for
57 contraceptive purposes.

58 (5) **Tolling of effective date.** If a state or federal court
59 of competent jurisdiction voids a provision of this section as
60 unconstitutional, the effective date of that provision shall be
61 tolled until that provision has been upheld as valid by a court of
62 competent jurisdiction.

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

65 73-25-29. The grounds for the nonissuance, suspension,
66 revocation or restriction of a license or the denial of
67 reinstatement or renewal of a license are:

68 (1) Habitual personal use of narcotic drugs, or any
69 other drug having addiction-forming or addiction-sustaining
70 liability.



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

73 (3) Administering, dispensing or prescribing any
74 narcotic drug, or any other drug having addiction-forming or
75 addiction-sustaining liability otherwise than in the course of
76 legitimate professional practice.

77 (4) Conviction of violation of any federal or state law
78 regulating the possession, distribution or use of any narcotic
79 drug or any drug considered a controlled substance under state or
80 federal law, a certified copy of the conviction order or judgment
81 rendered by the trial court being prima facie evidence thereof,
82 notwithstanding the pendency of any appeal.

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

85 (6) Conviction of a felony or misdemeanor involving
86 moral turpitude, a certified copy of the conviction order or
87 judgment rendered by the trial court being prima facie evidence
88 thereof, notwithstanding the pendency of any appeal.

89 (7) Obtaining or attempting to obtain a license by
90 fraud or deception.

91 (8) Unprofessional conduct, which includes, but is not
92 limited to:

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



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

97 (c) Making or willfully causing to be made any
98 flamboyant claims concerning the licensee's professional
99 excellence.

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

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

109 (f) Use of any false, fraudulent or forged
110 statement or document, or the use of any fraudulent, deceitful,
111 dishonest or immoral practice in connection with any of the
112 licensing requirements, including the signing in his professional
113 capacity any certificate that is known to be false at the time he
114 makes or signs such certificate.

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

118 (9) The refusal of a licensing authority of another
119 state or jurisdiction to issue or renew a license, permit or



120 certificate to practice medicine in that jurisdiction or the
121 revocation, suspension or other restriction imposed on a license,
122 permit or certificate issued by such licensing authority which
123 prevents or restricts practice in that jurisdiction, a certified
124 copy of the disciplinary order or action taken by the other state
125 or jurisdiction being prima facie evidence thereof,
126 notwithstanding the pendency of any appeal.

127 (10) Surrender of a license or authorization to
128 practice medicine in another state or jurisdiction or surrender of
129 membership on any medical staff or in any medical or professional
130 association or society while under disciplinary investigation by
131 any of those authorities or bodies for acts or conduct similar to
132 acts or conduct which would constitute grounds for action as
133 defined in this section.

134 (11) Final sanctions imposed by the United States
135 Department of Health and Human Services, Office of Inspector
136 General or any successor federal agency or office, based upon a
137 finding of incompetency, gross misconduct or failure to meet
138 professionally recognized standards of health care; a certified
139 copy of the notice of final sanction being prima facie evidence
140 thereof. As used in this paragraph, the term "final sanction"
141 means the written notice to a physician from the United States
142 Department of Health and Human Services, Officer of Inspector
143 General or any successor federal agency or office, which
144 implements the exclusion.



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

147 (13) Violation of any provision(s) of the Medical
148 Practice Act or the rules and regulations of the board or of any
149 order, stipulation or agreement with the board.

150 (14) Violation(s) of the provisions of Sections
151 41-121-1 through 41-121-9 relating to deceptive advertisement by
152 health care practitioners. This paragraph shall stand repealed on
153 July 1, 2016.

154 (15) Violation(s) of the provisions of Section 1 of
155 this act relating to the performance of an abortion on a pregnant
156 woman where the unborn human individual's heartbeat has been
157 detected under Section 41-41-34 and the unborn human individual is
158 twelve (12) weeks or greater gestation.

159 In addition to the grounds specified above, the board shall
160 be authorized to suspend the license of any licensee for being out
161 of compliance with an order for support, as defined in Section
162 93-11-153. The procedure for suspension of a license for being
163 out of compliance with an order for support, and the procedure for
164 the reissuance or reinstatement of a license suspended for that
165 purpose, and the payment of any fees for the reissuance or
166 reinstatement of a license suspended for that purpose, shall be
167 governed by Section 93-11-157 or 93-11-163, as the case may be.
168 If there is any conflict between any provision of Section
169 93-11-157 or 93-11-163 and any provision of this chapter, the



170 provisions of Section 93-11-157 or 93-11-163, as the case may be,
171 shall control.

172 **SECTION 3.** This act shall take effect and be in force from
173 and after July 1, 2014.

