

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
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As Engrossed: H2/20/19
A Bill

HOUSE BILL 1453

By: Representatives Penzo, Lundstrum, Breaux, Brown, Christiansen, Coleman, C. Cooper, Crawford, Evans, Hollowell, Maddox, J. Mayberry, Payton, Pilkington, Rye, B. Smith, Sullivan

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO CREATE THE PERINATAL *PALLIATIVE CARE* INFORMATION ACT; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE PERINATAL PALLIATIVE CARE INFORMATION ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 16, is amended to add an additional subchapter to read as follows:

Subchapter 20 – Perinatal Palliative Care Information Act

20-16-2001. Title.

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

20-16-2002. Legislative findings and purpose.

(a) The General Assembly finds that:

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

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

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

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



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

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

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

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

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

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

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

20-16-2003. Definitions.

As used in this subchapter:

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

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

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

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

(iii) Remove an ectopic pregnancy;

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

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

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

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

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

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

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

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

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

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

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

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

(2) She has received the materials described in subdivision

(a)(2) of this section.

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