**A** **BILL**

TO AMEND TITLE 44 OF THE 1976 CODE, RELATING TO HEALTH, BY ADDING CHAPTER 139 TO PROHIBIT THE PERFORMANCE OR INDUCTION OF ABORTIONS IN THIS STATE, TO PROVIDE LIMITED EXCEPTIONS, TO CLARIFY THAT CONTRACEPTIVES ARE NOT PROHIBITED, AND TO DEFINE NECESSARY TERMS; TO AMEND SECTION 40-47-110, RELATING TO MISCONDUCT BY PHYSICIANS, TO PROVIDE THAT ABORTIONS PERFORMED OR INDUCED IN VIOLATION OF THE PROHIBITION ON ABORTIONS CONSTITUTES MISCONDUCT SUBJECT TO DISCIPLINE BY THE BOARD OF MEDICAL EXAMINERS, TO PROVIDE THAT A PHYSICIAN DETERMINED TO HAVE PERFORMED OR INDUCED AN ABORTION IN VIOLATION OF THE PROHIBITION MUST HAVE HIS LICENSE REVOKED, AND TO PROVIDE THAT A PHYSICIAN WHOSE LICENSE HAS BEEN REVOKED FOR PERFORMING A PROHIBITED ABORTION MAY NEVER AGAIN BE LICENSED TO PRACTICE MEDICINE IN SOUTH CAROLINA; AND TO AMEND SECTION 40-47-110, RELATED TO THE UNLICENSED PRACTICE OF MEDICINE, TO PROVIDE A PENALTY FOR A NON-PHYSICIAN WHO PERFORMS OR INDUCES AN ABORTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“Chapter 139

Prohibition of Abortions

Section 44-139-10. For the purposes of this chapter:

(1) ‘Abortion’ means the use, distribution, dispensing, or delivering of any instrument, medicine, drug, or any other substance or device intended to intentionally kill the unborn baby of a woman known to be pregnant.

(2) ‘Contraception’ means the deliberate use of artificial methods or other techniques to prevent pregnancy as a consequence of sexual intercourse.

(3) ‘Fetal anomaly’ means that, on the basis of the physician’s reasonable medical judgment, the unborn child has a profound and irremediable congenital or chromosomal anomaly that, with or without the provision of life-preserving treatment, would be incompatible with sustaining life after birth.

(4) ‘Medical emergency’ means a condition that, by any reasonable medical judgment, so complicates the medical condition of a pregnant woman that it necessitates the abortion of her pregnancy to avert her death or creates a serious risk of a substantial and irreversible physical impairment of a major bodily function, not including psychological or emotional conditions. A condition must not be considered a medical emergency if based on a claim or diagnosis that a woman will engage in conduct that she intends to result in her death or in a substantial and irreversible physical impairment of a major bodily function.

(5) ‘Physician’ means any person licensed to practice medicine and surgery or osteopathic medicine and surgery in this State.

Section 44-139-20. No person may perform or induce an abortion in this State except as provided in subsection (B).

(B) A physician may perform or induce an abortion due to a medical emergency or due to a fetal anomaly.

Section 44-139-30. Nothing in this chapter shall be construed to prohibit contraception.

SECTION 2. A. Section 40-47-110(B) of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) performed or induced an abortion in violation of Section 44-139-20.

B. Section 40-47-110 of the 1976 Code is amended by adding an appropriately lettered new subsection to read:

“( ) If the board finds that a physician has performed or induced an abortion in violation of Section 44-139-20, the board must revoke the physician’s license. A physician whose license is revoked pursuant to this subsection may never again be licensed to practice medicine in this State.”

SECTION 3. Section 40-47-200 of the 1976 Code is amended to read:

“Section 40-47-200. (A) A person who practices or offers to practice medicine in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than fifty thousand dollars. Each violation constitutes a separate offense. The provisions of this chapter apply to a person or entity aiding and abetting in a violation of this chapter.

(B) The penalty contained in this section applies to a person, other than a licensed physician, who performs or induces an abortion in violation of Section 44-139-20.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor and upon the certification by the Attorney General to the Governor, the President of the Senate, and the Speaker of the House of Representatives that the United States Supreme Court has overruled, *Roe v. Wade*, 410 U.S. 113 (1973), and that the Supreme Court’s decision has the effect of establishing that that the State of South Carolina has the authority to regulate abortion to the extent set forth in this act.

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