

## HOUSE BILL No. 2324

By Representatives DeGraaf, Alcala, Bideau, Bradford, Brunk, Campbell, Carpenter, Christmann, Crum, Dove, Edwards, Garber, Goico, Gonzalez, Hedke, Hermanson, Hibbard, Houser, Howell, Huebert, Hutton, Kelley, Montgomery, O'Brien, Pauls, Peck, Read, Rhoades, Rothlisberg, Seiwert, Sutton and Thimesch

2-13

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1 AN ACT prohibiting an abortion of an unborn human individual with a  
2 detectable fetal heartbeat; amending K.S.A. 2012 Supp. 65-445 and 65-  
3 2836 and repealing the existing sections.

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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) The legislature declares that it finds, according to  
7 medical research and contemporary knowledge, all of the following:

8 (1) As many as 30% of natural pregnancies end in spontaneous  
9 miscarriage;

10 (2) less than 5% of all natural pregnancies end in spontaneous  
11 miscarriage after detection of fetal cardiac activity;

12 (3) over 90% of in vitro pregnancies survive the first trimester if  
13 cardiac activity is detected in the gestational sac;

14 (4) nearly 90% of in vitro pregnancies do not survive the first  
15 trimester where cardiac activity is not detected in the gestational sac;

16 (5) fetal heartbeat, therefore, has become a key, medical predictor that  
17 an unborn human individual will reach viability and live birth;

18 (6) cardiac activity begins at a biologically identifiable moment in  
19 time, normally when the fetal heart is formed in the gestational sac;

20 (7) The state of Kansas has legitimate interests from the outset of the  
21 pregnancy in protecting the health of the woman and the life of an unborn  
22 human individual who may be born; and

23 (8) In order to make an informed choice about whether to continue  
24 her pregnancy, the pregnant woman has a legitimate interest in knowing  
25 the likelihood of the fetus surviving to full-term birth based upon the  
26 presence of cardiac activity.

27 (b) As used in this section:

28 (1) "Conception" means fertilization.

29 (2) "Contraceptive" means a device, drug, or chemical that prevents  
30 conception.

31 (3) "DNA" means deoxyribonucleic acid.

32 (4) "Fertilization" means the fusion of gametes (ovum and sperm) to  
33 produce a new human organism; the process which leads to the

1 development of an embryo.

2 (5) "Fetal heartbeat" means cardiac activity or the steady and  
3 repetitive rhythmic contraction of the fetal heart within the gestational sac.

4 (6) "Fetus" means the human offspring developing during pregnancy  
5 from the moment of conception and includes the embryonic stage of  
6 development.

7 (7) "Gestational age" means the age of an unborn human individual  
8 as calculated from the first day of the last menstrual period of a pregnant  
9 woman.

10 (8) "Gestational sac" comprises the extra embryonic membranes that  
11 envelop the fetus and that is typically visible by ultrasound after the fourth  
12 week of pregnancy.

13 (9) "Intrauterine pregnancy" means a pregnancy in which the fetus is  
14 attached to the placenta within the uterus of the pregnant woman.

15 (10) "Medical emergency" means a condition that in the physician's  
16 good faith medical judgment, based upon the facts known to the physician  
17 at that time, so endangers the life of the pregnant woman or poses a serious  
18 risk of substantial and irreversible physical impairment of a major bodily  
19 function of the pregnant woman as to necessitate the immediate  
20 performance or inducement of an abortion.

21 (11) "Physician" means a person who is licensed to practice medicine  
22 and surgery.

23 (12) "Pregnancy" means the human female reproductive condition  
24 that begins with fertilization, when the woman is carrying the developing  
25 human offspring, and that is calculated from the first day of the last  
26 menstrual period of the woman.

27 (13) "Serious risk of substantial and irreversible physical impairment  
28 of a major bodily function" has the same meaning as in section K.S.A. 65-  
29 6723, and amendments thereto.

30 (14) "Spontaneous miscarriage" means the natural or accidental  
31 termination of a pregnancy and the expulsion of the fetus, typically caused  
32 by genetic defects in the fetus or physical abnormalities in the pregnant  
33 woman.

34 (15) "Standard medical practice" means the degree of skill, care, and  
35 diligence that a physician of the same medical specialty would employ in  
36 like circumstances. As applied to the method used to determine the  
37 presence of a fetal heartbeat for purposes of subsection (c)(1)(A),  
38 "standard medical practice" includes employing the appropriate means of  
39 detection depending on the estimated gestational age of the fetus and the  
40 condition of the woman and her pregnancy.

41 (16) "Unborn human individual" means an individual organism of the  
42 species homo sapiens from fertilization until live birth.

43 (c) (1) (A) A person who intends to perform or induce an abortion on

1 a pregnant woman shall determine whether there is a detectable fetal  
2 heartbeat of the unborn human individual the pregnant woman is carrying.  
3 The method of determining the presence of a fetal heartbeat shall be  
4 consistent with the person's good faith understanding of standard medical  
5 practice, provided that if rules have been adopted under subsection (B) of  
6 this section, the method chosen may be one that is consistent with the  
7 rules. The person who determines the presence or absence of a fetal  
8 heartbeat shall record in the pregnant woman's medical record the  
9 estimated gestational age of the unborn human individual, the method used  
10 to test for a fetal heartbeat, the date and time of the test, and the results of  
11 the test.

12 (B) The secretary of health and environment may adopt rules  
13 specifying the appropriate methods of determining the presence of a fetal  
14 heartbeat of an unborn individual based on standard medical practice.

15 (2) (A) Except as provided in subsection (c)(2)(B) of this section, no  
16 person shall knowingly and purposefully perform or induce an abortion on  
17 a pregnant woman before determining in accordance with subsection (c)(1)  
18 (A) whether the unborn human individual the pregnant woman is carrying  
19 has a detectable heartbeat. If a physician performs an abortion on a  
20 pregnant woman prior to determining if the fetus the pregnant woman is  
21 carrying has a detectable fetal heartbeat, that physician is subject to  
22 disciplinary action under K.S.A. 65-2836, and amendments thereto.

23 (B) Subsection (c)(2)(A) of this section does not apply to a physician  
24 who performs or induces the abortion if the physician believes that a  
25 medical emergency exists that prevents compliance with that subsection.

26 (C) A physician who performs or induces an abortion on a pregnant  
27 woman based on the exception in subsection (c)(2)(B) of this section shall  
28 make written notations in the pregnant woman's medical records of both of  
29 the following:

30 (i) The physician's belief that a medical emergency necessitating the  
31 abortion existed; and

32 (ii) the medical condition of the pregnant woman that assertedly  
33 prevented compliance with subsection (c)(2)(A) of this section.

34 (iii) For at least seven years from the date the notations are made, the  
35 physician shall maintain in the physician's own records a copy of the  
36 notations.

37 (D) A person is not in violation of subsection (c)(2)(A) of this section  
38 if the person acts in accordance with subsection (c)(1)(A) of this section  
39 and the method used to test for the presence of a fetal heartbeat does not  
40 reveal a fetal heartbeat.

41 (d) (1) If a person who intends to perform or induce an abortion on a  
42 pregnant woman has determined, under subsection (c)(1)(A) of this  
43 section, that the unborn human individual the pregnant woman is carrying

1 has a detectable heartbeat, the person shall not, except as provided in  
2 subsection (d)(2) of this section, perform or induce the abortion until all of  
3 the following requirements have been met and at least twenty-four hours  
4 have elapsed after the last of the requirements is met:

5 (A) The person intending to perform or induce the abortion shall  
6 inform the pregnant woman in writing that the unborn human individual  
7 the pregnant woman is carrying has a fetal heartbeat.

8 (B) The person intending to perform or induce the abortion shall  
9 inform the pregnant woman, to the best of the person's knowledge, of the  
10 statistical probability of bringing the unborn human individual possessing  
11 a detectable fetal heartbeat to term based on the gestational age of the  
12 unborn human individual or, if the secretary of health and environment has  
13 specified statistical probability information pursuant to rules adopted  
14 under subsection (d)(3) of this section, shall provide to the pregnant  
15 woman that information.

16 (C) The pregnant woman shall sign a form acknowledging that the  
17 pregnant woman has received information from the person intending to  
18 perform or induce the abortion that the unborn human individual the  
19 pregnant woman is carrying has a fetal heartbeat and that the pregnant  
20 woman is aware of the statistical probability of bringing the unborn human  
21 individual the pregnant woman is carrying to term.

22 (2) Subsection (d)(1) of this section does not apply if the person who  
23 intends to perform or induce the abortion believes that a medical  
24 emergency exists that prevents compliance with that subsection.

25 (3) The secretary of health and environment may adopt rules that  
26 specify information regarding the statistical probability of bringing an  
27 unborn human individual possessing a detectable heartbeat to term based  
28 on the gestational age of the unborn human individual. The rules shall be  
29 based on available medical evidence.

30 (4) This section does not have the effect of repealing or limiting any  
31 other provision of Kansas law relating to informed consent for an abortion.

32 (e) (1) (A) Except as provided in subsection (e)(1)(B) of this section,  
33 no person shall knowingly and purposefully perform or induce an abortion  
34 on a pregnant woman with the specific intent of causing or abetting the  
35 termination of the life of the unborn human individual the pregnant woman  
36 is carrying and whose fetal heartbeat has been detected in accordance with  
37 subsection (c)(1)(A) of this section. Whoever violates this section is guilty  
38 of performing or inducing an abortion after the detection of a fetal  
39 heartbeat, a severity level 8, person felony.

40 (B) Subsection (e)(1)(A) of this section does not apply to a physician  
41 who performs a medical procedure that, in the physician's reasonable  
42 medical judgment, is designed or intended to prevent the death of the  
43 pregnant woman or to prevent a serious risk of substantial and irreversible

1 physical impairment of a major bodily function of the pregnant woman. A  
2 physician who performs a medical procedure as described in this section  
3 shall declare, in a written document, that the medical procedure is  
4 necessary, to the best of the physician's reasonable medical judgment, to  
5 prevent the death of the pregnant woman or to prevent a serious risk of  
6 substantial and irreversible physical impairment of a major bodily function  
7 of the pregnant woman. In the document, the physician shall specify the  
8 pregnant woman's medical condition that the medical procedure is asserted  
9 to address and the medical rationale for the physician's conclusion that the  
10 medical procedure is necessary to prevent the death of the pregnant  
11 woman or to prevent a serious risk of substantial and irreversible physical  
12 impairment of a major bodily function of the pregnant woman. A physician  
13 who performs a medical procedure as described in this subsection shall  
14 place the written document required by this subsection in the pregnant  
15 woman's medical records. For at least seven years from the date the  
16 document is created, the physician shall maintain a copy of the document  
17 in the physician's own records.

18 (C) A person is not in violation of subsection (e)(1)(A) of this section  
19 if the person acts in accordance with subsection (c)(1)(A) of this section  
20 and the method used to test for the presence of a fetal heartbeat does not  
21 reveal a fetal heartbeat.

22 (2) Subsection (e)(1)(A) of this section does not have the effect of  
23 repealing or limiting any other provision of Kansas law that restricts or  
24 regulates the performance or inducement of an abortion by a particular  
25 method or during a particular stage of a pregnancy.

26 (f) (1) (A) A person who performs or induces an abortion on a  
27 pregnant woman shall do whichever of the following is applicable:

28 (i) If the reason for the abortion purportedly is to preserve the health  
29 of the pregnant woman, the person shall specify in a written document the  
30 medical condition that the abortion is asserted to address and the medical  
31 rationale for the person's conclusion that the abortion is necessary to  
32 address that condition.

33 (ii) If the reason for the abortion is other than to preserve the health of  
34 the pregnant woman, the person shall specify in a written document that  
35 maternal health is not the purpose of the abortion.

36 (B) The person who specifies the information in the document  
37 described in subsection (f)(1)(A) of this section shall place the document  
38 in the pregnant woman's medical records. For at least seven years from  
39 the date the document is created, the person who specifies the information  
40 shall maintain a copy of the document in the person's own records.

41 (2) (A) A woman on whom an abortion was performed or induced in  
42 violation of subsections (c)(2)(A), (d)(1), or (e)(1)(A) may file a civil  
43 action for the wrongful death of her unborn child.

1 (B) A woman who prevails in an action filed under subsection (f)(2)  
2 (A) of this section shall receive both of the following from the person who  
3 committed the violations described in subsection (f)(2)(A) of this section:

4 (i) Damages in an amount equal to ten thousand dollars or an amount  
5 determined by the trier of fact after consideration of the evidence (at the  
6 mother's election at any time prior to final judgment) subject to the same  
7 defenses and requirements of proof, except any requirement of live birth,  
8 as would apply to a suit for the wrongful death of a child who had been  
9 born alive;

10 (ii) Court costs and reasonable attorney's fees.

11 (C) If the defendant in an action filed under subsection (f)(2)(A) of  
12 this section prevails and the court finds that the commencement of the  
13 action constitutes frivolous conduct and that the defendant was adversely  
14 affected by the frivolous conduct, the court shall award reasonable  
15 attorney's fees to the prevailing defendant.

16 (3) All of the information the physician is required to certify in  
17 writing or determine under subsections (c), (d), (e) and (f) of this section  
18 shall also be reported by the physician as part of the written report made  
19 by the physician to the secretary of health and environment under K.S.A.  
20 65-445, and amendments thereto.

21 (g) A pregnant woman on whom an abortion is performed in violation  
22 of subsection (c) or (e) is not guilty of violating subsection (c) or (e) or of  
23 attempting to commit, conspiring to commit or complicity in committing a  
24 violation of subsection (c) or (e) and is not subject to a civil penalty based  
25 on that violation.

26 (h) Nothing in this section prohibits the sale, use, prescription, or  
27 administration of a measure, drug or chemical designed for contraceptive  
28 purposes.

29 (i) (1) It is the intent of the Kansas legislature that a court judgment  
30 or order suspending enforcement of any provision of this section is not to  
31 be regarded as tantamount to repeal of that section or provision.

32 (2) After the issuance of a decision by the supreme court of the  
33 United States overruling *Roe v. Wade*, 410 U.S. 113 (1973), the issuance  
34 of any other court order or judgment restoring, expanding, or clarifying the  
35 authority of states to prohibit or regulate abortion entirely or in part, or the  
36 effective date of an amendment to the constitution of the United States  
37 restoring, expanding, or clarifying the authority of states to prohibit or  
38 regulate abortion entirely or in part, the attorney general may apply to the  
39 pertinent state or federal court for either or both of the following:

40 (A) A declaration that any one or more provisions of this section are  
41 constitutional;

42 (B) a judgment or order lifting an injunction against the enforcement  
43 of any one or more provisions of this section.

1 (3) If the attorney general fails to apply for the relief described in  
2 subsection (i)(2) of this section within the thirty-day period after an event  
3 described in that subsection occurs, any district attorney may apply to the  
4 appropriate district, state or federal court for such relief.

5 (4) If any provision of this section is held invalid, or if the application  
6 of such provision to any person or circumstance is held invalid, the  
7 invalidity of that provision does not affect any other provisions or  
8 applications of this section that can be given effect without the invalid  
9 provision or application, and to this end, the provisions of this section are  
10 severable. In particular, it is the intent of the legislature that any invalidity  
11 or potential invalidity of a provision of this section is not to impair the  
12 immediate and continuing enforceability of the remaining provisions. It is  
13 furthermore the intent of the legislature that the provisions of this section  
14 are not to have the effect of repealing or limiting any other laws of this  
15 state, except as specified by this section.

16 (j) If any provision of this section or its application to any person or  
17 circumstance is held invalid, the invalidity does not affect other provisions  
18 or applications of this section that can be given effect without the invalid  
19 provision or application, and to this end the provisions of this section are  
20 severable.

21 Sec. 2. K.S.A. 2012 Supp. 65-445 is hereby amended to read as  
22 follows: 65-445. (a) Every medical care facility shall keep written records  
23 of all pregnancies which are lawfully terminated within such medical care  
24 facility and shall annually submit a written report thereon to the secretary  
25 of health and environment in the manner and form prescribed by the  
26 secretary. Every person licensed to practice medicine and surgery shall  
27 keep a record of all pregnancies which are lawfully terminated by such  
28 person in a location other than a medical care facility and shall annually  
29 submit a written report thereon to the secretary of health and environment  
30 in the manner and form prescribed by the secretary.

31 (b) Each report required by this section shall include the number of  
32 pregnancies terminated during the period of time covered by the report, the  
33 type of medical facility in which the pregnancy was terminated,  
34 information required to be reported under subsections (b) and (c) of K.S.A.  
35 65-6703, subsection (j) of K.S.A. 65-6705, subsection (c) of K.S.A. 65-  
36 6721 ~~and~~, K.S.A. 2012 Supp. 65-6724, *and subsections (c), (d), (e) and (f)*  
37 *of section 1*, and amendments thereto, if applicable to the pregnancy  
38 terminated, and such other information as may be required by the secretary  
39 of health and environment, but the report shall not include the names of  
40 the persons whose pregnancies were so terminated. Each report required  
41 by subsections (b) and (c) of K.S.A. 65-6703, subsection (j) of K.S.A. 65-  
42 6705 and subsection (c) of K.S.A. 65-6721, and amendments thereto, shall  
43 specify the medical diagnosis and condition constituting a substantial and

1 irreversible impairment of a major bodily function or the medical  
2 diagnosis and condition which necessitated performance of an abortion to  
3 preserve the life of the pregnant woman. Each report required by K.S.A.  
4 65-6703, and amendments thereto, shall include a sworn statement by the  
5 physician performing the abortion and the referring physician that such  
6 physicians are not legally or financially affiliated.

7 (c) Information obtained by the secretary of health and environment  
8 under this section shall be confidential and shall not be disclosed in a  
9 manner that would reveal the identity of any person licensed to practice  
10 medicine and surgery who submits a report to the secretary under this  
11 section or the identity of any medical care facility which submits a report  
12 to the secretary under this section, except that such information, including  
13 information identifying such persons and facilities may be disclosed to the  
14 state board of healing arts upon request of the board for disciplinary action  
15 conducted by the board and may be disclosed to the attorney general or  
16 any district or county attorney in this state upon a showing that a  
17 reasonable cause exists to believe that a violation of this act has occurred.  
18 Any information disclosed to the state board of healing arts, the attorney  
19 general or any district or county attorney pursuant to this subsection shall  
20 be used solely for the purposes of a disciplinary action or criminal  
21 proceeding. Except as otherwise provided in this subsection, information  
22 obtained by the secretary under this section may be used only for statistical  
23 purposes and such information shall not be released in a manner which  
24 would identify any county or other area of this state in which the  
25 termination of the pregnancy occurred. A violation of this subsection (c) is  
26 a class A nonperson misdemeanor.

27 (d) In addition to such criminal penalty under subsection (c), any  
28 person licensed to practice medicine and surgery or medical care facility  
29 whose identity is revealed in violation of this section may bring a civil  
30 action against the responsible person or persons for any damages to the  
31 person licensed to practice medicine and surgery or medical care facility  
32 caused by such violation.

33 (e) For the purpose of maintaining confidentiality as provided by  
34 subsections (c) and (d), reports of terminations of pregnancies required by  
35 this section shall identify the person or facility submitting such reports  
36 only by confidential code number assigned by the secretary of health and  
37 environment to such person or facility and the department of health and  
38 environment shall maintain such reports only by such number.

39 (f) The annual public report on abortions performed in Kansas issued  
40 by the secretary of health and environment shall contain the information  
41 required to be reported by this section to the extent such information is not  
42 deemed confidential pursuant to this section. The secretary of health and  
43 environment shall adopt rules and regulations to implement this section.



1 Such rules and regulations shall prescribe, in detail, the information  
2 required to be kept by the physicians and hospitals and the information  
3 required in the reports which must be submitted to the secretary.

4 (g) The department of social and rehabilitation services shall prepare  
5 and publish an annual report on the number of reports of child sexual  
6 abuse received by the department from abortion providers. Such report  
7 shall be categorized by the age of the victim and the month the report was  
8 submitted to the department. The name of the victim and any other  
9 identifying information shall be kept confidential by the department and  
10 shall not be released as part of the public report.

11 Sec. 3. K.S.A. 2012 Supp. 65-2836 is hereby amended to read as  
12 follows: 65-2836. A licensee's license may be revoked, suspended or  
13 limited, or the licensee may be publicly or privately censured or placed  
14 under probationary conditions, or an application for a license or for  
15 reinstatement of a license may be denied upon a finding of the existence of  
16 any of the following grounds:

17 (a) The licensee has committed fraud or misrepresentation in  
18 applying for or securing an original, renewal or reinstated license.

19 (b) The licensee has committed an act of unprofessional or  
20 dishonorable conduct or professional incompetency, except that the board  
21 may take appropriate disciplinary action or enter into a non-disciplinary  
22 resolution when a licensee has engaged in any conduct or professional  
23 practice on a single occasion that, if continued, would reasonably be  
24 expected to constitute an inability to practice the healing arts with  
25 reasonable skill and safety to patients or unprofessional conduct as defined  
26 in K.S.A. 65-2837, and amendments thereto.

27 (c) The licensee has been convicted of a felony or class A  
28 misdemeanor, whether or not related to the practice of the healing arts. The  
29 board shall revoke a licensee's license following conviction of a felony  
30 occurring after July 1, 2000, unless a  $\frac{2}{3}$  majority of the board members  
31 present and voting determine by clear and convincing evidence that such  
32 licensee will not pose a threat to the public in such person's capacity as a  
33 licensee and that such person has been sufficiently rehabilitated to warrant  
34 the public trust. In the case of a person who has been convicted of a felony  
35 and who applies for an original license or to reinstate a canceled license,  
36 the application for a license shall be denied unless a  $\frac{2}{3}$  majority of the  
37 board members present and voting on such application determine by clear  
38 and convincing evidence that such person will not pose a threat to the  
39 public in such person's capacity as a licensee and that such person has been  
40 sufficiently rehabilitated to warrant the public trust.

41 (d) The licensee has used fraudulent or false advertisements.

42 (e) The licensee is addicted to or has distributed intoxicating liquors  
43 or drugs for any other than lawful purposes.

1 (f) The licensee has willfully or repeatedly violated this act, the  
2 pharmacy act of the state of Kansas or the uniform controlled substances  
3 act, or any rules and regulations adopted pursuant thereto, or any rules and  
4 regulations of the secretary of health and environment which are relevant  
5 to the practice of the healing arts.

6 (g) The licensee has unlawfully invaded the field of practice of any  
7 branch of the healing arts in which the licensee is not licensed to practice.

8 (h) The licensee has engaged in the practice of the healing arts under  
9 a false or assumed name, or the impersonation of another practitioner. The  
10 provisions of this subsection relating to an assumed name shall not apply  
11 to licensees practicing under a professional corporation or other legal  
12 entity duly authorized to provide such professional services in the state of  
13 Kansas.

14 (i) The licensee has the inability to practice the healing arts with  
15 reasonable skill and safety to patients by reason of physical or mental  
16 illness, or condition or use of alcohol, drugs or controlled substances. In  
17 determining whether or not such inability exists, the board, upon  
18 reasonable suspicion of such inability, shall have authority to compel a  
19 licensee to submit to mental or physical examination or drug screen, or any  
20 combination thereof, by such persons as the board may designate either in  
21 the course of an investigation or a disciplinary proceeding. To determine  
22 whether reasonable suspicion of such inability exists, the investigative  
23 information shall be presented to the board as a whole, to a review  
24 committee of professional peers of the licensee established pursuant to  
25 K.S.A. 65-2840c, and amendments thereto, or to a committee consisting of  
26 the officers of the board elected pursuant to K.S.A. 65-2818, and  
27 amendments thereto, and the executive director appointed pursuant to  
28 K.S.A. 65-2878, and amendments thereto, or to a presiding officer  
29 authorized pursuant to K.S.A. 77-514, and amendments thereto. The  
30 determination shall be made by a majority vote of the entity which  
31 reviewed the investigative information. Information submitted to the board  
32 as a whole or a review committee of peers or a committee of the officers  
33 and executive director of the board and all reports, findings and other  
34 records shall be confidential and not subject to discovery by or release to  
35 any person or entity. The licensee shall submit to the board a release of  
36 information authorizing the board to obtain a report of such examination or  
37 drug screen, or both. A person affected by this subsection shall be offered,  
38 at reasonable intervals, an opportunity to demonstrate that such person can  
39 resume the competent practice of the healing arts with reasonable skill and  
40 safety to patients. For the purpose of this subsection, every person licensed  
41 to practice the healing arts and who shall accept the privilege to practice  
42 the healing arts in this state by so practicing or by the making and filing of  
43 a renewal to practice the healing arts in this state shall be deemed to have

1 consented to submit to a mental or physical examination or a drug screen,  
2 or any combination thereof, when directed in writing by the board and  
3 further to have waived all objections to the admissibility of the testimony,  
4 drug screen or examination report of the person conducting such  
5 examination or drug screen, or both, at any proceeding or hearing before  
6 the board on the ground that such testimony or examination or drug screen  
7 report constitutes a privileged communication. In any proceeding by the  
8 board pursuant to the provisions of this subsection, the record of such  
9 board proceedings involving the mental and physical examination or drug  
10 screen, or any combination thereof, shall not be used in any other  
11 administrative or judicial proceeding.

12 (j) The licensee has had a license to practice the healing arts revoked,  
13 suspended or limited, has been censured or has had other disciplinary  
14 action taken, or an application for a license denied, by the proper licensing  
15 authority of another state, territory, District of Columbia, or other country,  
16 a certified copy of the record of the action of the other jurisdiction being  
17 conclusive evidence thereof.

18 (k) The licensee has violated any lawful rule and regulation  
19 promulgated by the board or violated any lawful order or directive of the  
20 board previously entered by the board.

21 (l) The licensee has failed to report or reveal the knowledge required  
22 to be reported or revealed under K.S.A. 65-28,122, and amendments  
23 thereto.

24 (m) The licensee, if licensed to practice medicine and surgery, has  
25 failed to inform in writing a patient suffering from any form of  
26 abnormality of the breast tissue for which surgery is a recommended form  
27 of treatment, of alternative methods of treatment recognized by licensees  
28 of the same profession in the same or similar communities as being  
29 acceptable under like conditions and circumstances.

30 (n) The licensee has cheated on or attempted to subvert the validity of  
31 the examination for a license.

32 (o) The licensee has been found to be mentally ill, disabled, not guilty  
33 by reason of insanity, not guilty because the licensee suffers from a mental  
34 disease or defect or incompetent to stand trial by a court of competent  
35 jurisdiction.

36 (p) The licensee has prescribed, sold, administered, distributed or  
37 given a controlled substance to any person for other than medically  
38 accepted or lawful purposes.

39 (q) The licensee has violated a federal law or regulation relating to  
40 controlled substances.

41 (r) The licensee has failed to furnish the board, or its investigators or  
42 representatives, any information legally requested by the board.

43 (s) Sanctions or disciplinary actions have been taken against the

1 licensee by a peer review committee, health care facility, a governmental  
2 agency or department or a professional association or society for acts or  
3 conduct similar to acts or conduct which would constitute grounds for  
4 disciplinary action under this section.

5 (t) The licensee has failed to report to the board any adverse action  
6 taken against the licensee by another state or licensing jurisdiction, a peer  
7 review body, a health care facility, a professional association or society, a  
8 governmental agency, by a law enforcement agency or a court for acts or  
9 conduct similar to acts or conduct which would constitute grounds for  
10 disciplinary action under this section.

11 (u) The licensee has surrendered a license or authorization to practice  
12 the healing arts in another state or jurisdiction, has surrendered the  
13 authority to utilize controlled substances issued by any state or federal  
14 agency, has agreed to a limitation to or restriction of privileges at any  
15 medical care facility or has surrendered the licensee's membership on any  
16 professional staff or in any professional association or society while under  
17 investigation for acts or conduct similar to acts or conduct which would  
18 constitute grounds for disciplinary action under this section.

19 (v) The licensee has failed to report to the board surrender of the  
20 licensee's license or authorization to practice the healing arts in another  
21 state or jurisdiction or surrender of the licensee's membership on any  
22 professional staff or in any professional association or society while under  
23 investigation for acts or conduct similar to acts or conduct which would  
24 constitute grounds for disciplinary action under this section.

25 (w) The licensee has an adverse judgment, award or settlement  
26 against the licensee resulting from a medical liability claim related to acts  
27 or conduct similar to acts or conduct which would constitute grounds for  
28 disciplinary action under this section.

29 (x) The licensee has failed to report to the board any adverse  
30 judgment, settlement or award against the licensee resulting from a  
31 medical malpractice liability claim related to acts or conduct similar to acts  
32 or conduct which would constitute grounds for disciplinary action under  
33 this section.

34 (y) The licensee has failed to maintain a policy of professional  
35 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and  
36 amendments thereto.

37 (z) The licensee has failed to pay the premium surcharges as required  
38 by K.S.A. 40-3404, and amendments thereto.

39 (aa) The licensee has knowingly submitted any misleading, deceptive,  
40 untrue or fraudulent representation on a claim form, bill or statement.

41 (bb) The licensee as the responsible physician for a physician  
42 assistant has failed to adequately direct and supervise the physician  
43 assistant in accordance with the physician assistant licensure act or rules

1 and regulations adopted under such act.

2 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406,  
3 prior to its repeal, or K.S.A. 2012 Supp. 21-5407, and amendments  
4 thereto, as established by any of the following:

5 (A) A copy of the record of criminal conviction or plea of guilty for a  
6 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2012  
7 Supp. 21-5407, and amendments thereto.

8 (B) A copy of the record of a judgment of contempt of court for  
9 violating an injunction issued under K.S.A. 60-4404, and amendments  
10 thereto.

11 (C) A copy of the record of a judgment assessing damages under  
12 K.S.A. 60-4405, and amendments thereto.

13 *(dd) Performing an abortion on a pregnant woman prior to*  
14 *determining if the unborn human individual the pregnant woman is*  
15 *carrying has a detectable fetal heartbeat, as provided in section 1, and*  
16 *amendments thereto.*

17 Sec. 4. K.S.A. 2012 Supp. 65-445 and 65-2836 are hereby repealed.

18 Sec. 5. This act shall take effect and be in force from and after its  
19 publication in the Kansas register.