SENATE BILL No. 27

January 22, 2015, Introduced by Senators JONES, COLBECK, MACGREGOR, MARLEAU, ZORN and ROBERTSON and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code,"
by amending section 2835 (MCL 333.2835), as amended by 2012 PA 499, and by adding section 2839.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2835. (1) As used in this section and sections 2837 AND 2839, "physical complication" means a physical condition occurring during or after an abortion that, under generally accepted standards of medical practice, requires medical attention.

Physical complication includes, but is not limited to, infection, hemorrhage, cervical laceration, ALLERGIC RESPONSE, ANESTHESIA-RELATED COMPLICATIONS, or perforation of the uterus.

(2) A physician who performs an abortion shall report the performance of that procedure to the department on forms prescribed and provided by the department. A physician shall transmit a report...
required under this subsection to the director within 7 days after
the performance of the abortion.

(3) Each report of an abortion required under subsection (2)
shall MUST contain only the following information and no other
information:

(a) The age of the individual at the time of the abortion.

(b) The marital status of the individual at the time of the
abortion.

(c) The race and, if applicable, Hispanic ethnicity of the
individual.

(d) The city or township, county, and state in which the
individual resided at the time of the abortion.

(e) The name and address of the facility and the type of
facility in which the abortion was performed.

(f) The source of referral to the physician performing the
abortion.

(g) The number of previous pregnancies carried to term.

(h) The number of previous pregnancies ending in spontaneous
abortion.

(i) The number of previous pregnancies terminated by abortion.

(j) The method used before the abortion to confirm the
pregnancy, the period of gestation in weeks of the present
pregnancy, and the first day of the last menstrual period.

(k) The method used to perform the abortion.

(l) The weight of the embryo or fetus, if determinable.

(m) Whether the fetus showed evidence of life when separated,
expelled, or removed from the individual.
(n) The date of performance of the abortion.
(o) The method and source of payment for the abortion.
(p) A physical complication or death resulting from the abortion and observed by the physician or reported to the physician or his or her agent before the report required under subsection (2) is transmitted to the director.
(q) The physician's signature and his or her state license number.

(4) The A PHYSICIAN WHO SUBMITS A report required under subsection (2) shall not contain INCLUDE the name of the individual, common identifiers such as her social security number or motor vehicle operator's license number, or other information or identifiers that would make it possible to identify in any manner or under any circumstances an individual who has obtained or seeks to obtain an abortion. A state agency shall not compare data in an electronic or other information system file with data in another electronic or other information system that would result in identifying in any manner or under any circumstances an individual obtaining or seeking to obtain an abortion. Statistical information that may reveal the identity of an individual obtaining or seeking to obtain an abortion shall not be maintained.

(5) The department shall destroy each individual report required by this section and each copy of the report after retaining the report for 5 years after the date the report is received.

(6) The department shall make available annually in aggregate a statistical report summarizing the information submitted in each
individual report required by this section. The department shall specifically summarize aggregate data regarding all of the following in the annual statistical report:

(a) The period of gestation in 4-week intervals from 5 weeks through 28 weeks.

(b) Abortions performed on individuals aged 17 and under.

(c) Physical complications reported under subsection (3)(p) and section 2837.

(7) The reports required under this section are statistical reports to be used only for medical and health purposes. and THE DEPARTMENT shall not be incorporated INCORPORATE THE REPORTS REQUIRED UNDER THIS SECTION into the permanent official records of the system of vital statistics.

(8) Except as otherwise provided in subsection (10), the department or an employee of the department shall not disclose to a person or entity outside the department the reports or the contents of the reports required by this section in a manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the individual who is the subject of the report, the identity of the physician who performed the abortion, or the name or address of a facility in which an abortion was performed.

(9) A person who discloses confidential identifying information in violation of this section, section 2834(6), or section 2837 is guilty of a felony punishable by imprisonment for not more than 3 years or a fine of not more than $5,000.00, or both.
(10) The department may release the reports or the contents of the reports required by this section to the department of licensing and regulatory affairs for regulatory purposes only. The department of licensing and regulatory affairs or an employee of the department of licensing or regulatory affairs shall not disclose to a person or entity outside of the department of licensing and regulatory affairs the reports or the contents of the reports required by this section in a manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the individual who is the subject of the report, the identity of the physician who performed the abortion, or the name or address of a facility in which an abortion was performed.

SEC. 2839. (1) ANY INDIVIDUAL WHO HAS ACTUAL KNOWLEDGE THAT A WOMAN HAS SOUGHT TREATMENT FOR A PHYSICAL COMPLICATION THAT IS A RESULT OF AN ABORTION MAY COMPLETE AND CAUSE TO BE TRANSMITTED A NOTICE OF COMPLIANCE FORM DESCRIBED IN SUBSECTION (3)(A) IN THE MANNER PRESCRIBED IN SUBSECTION (2).

(2) AN INDIVIDUAL WHO COMPLETES A NOTICE OF COMPLIANCE UNDER SUBSECTION (1) SHALL TRANSMIT COPIES OF THE NOTICE OF COMPLIANCE BY EITHER CERTIFIED MAIL OR HAND DELIVERY TO EACH OF THE FOLLOWING:

(A) THE PHYSICIAN OR HEALTH FACILITY WHERE THE WOMAN IS ALLEGED TO HAVE BEEN TREATED FOR THE PHYSICAL COMPLICATION.

(B) THE PHYSICIAN WHO PERFORMED THE ABORTION, IF KNOWN.

(C) THE DEPARTMENT.

(3) THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

(A) DEVELOP AND MAKE AVAILABLE IN PRINT AND ELECTRONIC FORMAT A NOTICE OF COMPLIANCE FORM FOR REPORTING ONLY THE FOLLOWING
INFORMATION:

(i) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE INDIVIDUAL FILING THE NOTICE OF COMPLIANCE.

(ii) THE NAME AND ADDRESS OF THE HEALTH FACILITY WHERE THE WOMAN PRESENTED FOR TREATMENT OF THE PHYSICAL COMPLICATION.

(iii) THE DATE THE WOMAN PRESENTED FOR TREATMENT OF THE PHYSICAL COMPLICATION.

(iv) THE AGE, IF KNOWN, OR THE APPROXIMATE AGE OF THE WOMAN.

(v) THE TYPE OF PHYSICAL COMPLICATION THAT WAS TREATED AND WHETHER DEATH OCCURRED.

(vi) THE FOLLOWING INFORMATION ABOUT THE PERFORMANCE OF THE ABORTION THAT LED TO THE PHYSICAL COMPLICATION OR DEATH:

(A) THE NAME AND ADDRESS OF THE FACILITY WHERE THE ABORTION WAS PERFORMED.

(B) THE NAME OF THE PHYSICIAN PERFORMING THE ABORTION.

(C) THE DATE THE ABORTION WAS PERFORMED.

(B) WITHIN 7 DAYS OF RECEIVING A NOTICE OF COMPLIANCE, PROVIDE A WRITTEN CONFIRMATION TO THE INDIVIDUAL SUBMITTING THE NOTICE AND TRANSMIT COPIES OF THE WRITTEN CONFIRMATION TO ANY PHYSICIAN OR HEALTH FACILITY NAMED IN THE NOTICE OF COMPLIANCE.

(C) RETAIN A NOTICE OF COMPLIANCE FOR 5 YEARS OR UNTIL THE DEPARTMENT DETERMINES THAT A REPORT REQUIRED UNDER SECTION 2835 OR 2837 THAT CORRESPONDS TO THE NOTICE OF COMPLIANCE HAS BEEN RECEIVED BY THE DEPARTMENT. IF THE DEPARTMENT RECEIVES A REPORT REQUIRED UNDER SECTION 2835 OR 2837 THAT CORRESPONDS TO A NOTICE OF COMPLIANCE IT HAS RECEIVED UNDER THIS SECTION, THE DEPARTMENT SHALL NOTIFY THE INDIVIDUAL WHO FILED THE NOTICE OF COMPLIANCE THAT THE
REPORT HAS BEEN RECEIVED AND DETERMINED TO CORRESPOND TO THE NOTICE
OF COMPLIANCE.

(4) AN INDIVIDUAL WHO TRANSMITS A NOTICE OF COMPLIANCE UNDER
SUBSECTION (2) SHALL NOT INCLUDE THE NAME, COMMON IDENTIFIERS SUCH
AS SOCIAL SECURITY NUMBER OR MOTOR VEHICLE OPERATOR’S LICENSE
NUMBER, OR OTHER INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT
POSSIBLE TO IDENTIFY IN ANY MANNER OR UNDER ANY CIRCUMSTANCES THE
WOMAN WHO SOUGHT TREATMENT FOR A PHYSICAL COMPLICATION. A STATE
AGENCY SHALL NOT COMPARE DATA IN AN ELECTRONIC OR OTHER INFORMATION
SYSTEM FILE WITH DATA IN ANOTHER ELECTRONIC OR OTHER INFORMATION
SYSTEM THAT WOULD RESULT IN IDENTIFYING IN ANY MANNER OR UNDER ANY
CIRCUMSTANCES AN INDIVIDUAL SEEKING TREATMENT FOR A PHYSICAL
COMPLICATION. STATISTICAL INFORMATION THAT MAY REVEAL THE IDENTITY
OF AN INDIVIDUAL SEEKING TREATMENT FOR A PHYSICAL COMPLICATION
SHALL NOT BE MAINTAINED.

(5) THE DEPARTMENT SHALL NOT INCORPORATE A NOTICE OF
COMPLIANCE RECEIVED UNDER THIS SECTION INTO THE PERMANENT OFFICIAL
RECORDS OF THE SYSTEM OF VITAL STATISTICS. THE DEPARTMENT MAY USE A
NOTICE OF COMPLIANCE AS PART OF AN INVESTIGATION REGARDING
COMPLIANCE WITH SECTION 2835 OR 2837.

(6) THE DEPARTMENT OR AN EMPLOYEE OF THE DEPARTMENT SHALL NOT
DISCLOSE TO A PERSON OR ENTITY OUTSIDE THE DEPARTMENT THE REPORTS
OR THE CONTENTS OF THE REPORTS REQUIRED BY THIS SECTION IN A MANNER
OR FASHION SO AS TO PERMIT THE PERSON OR ENTITY TO WHOM THE REPORT
IS DISCLOSED TO IDENTIFY IN ANY WAY THE PERSON WHO IS THE SUBJECT
OF THE REPORT.

(7) THIS SECTION DOES NOT APPLY TO A PHYSICIAN WHO REPORTS A
(8) A person who knowingly files a false notice of compliance or knowingly discloses confidential identifying information in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.