

SENATE BILL No. 840

March 4, 2014, Introduced by Senators JONES, ROBERTSON, MARLEAU, COLBECK, MOOLENAAR and BOOHER 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:

1 Sec. 2835. (1) As used in this section and ~~section~~**SECTIONS**
2 2837 **AND 2839**, "physical complication" means a physical condition
3 occurring during or after an abortion that, under generally
4 accepted standards of medical practice, requires medical attention.
5 Physical complication includes, but is not limited to, infection,
6 hemorrhage, cervical laceration, **ALLERGIC RESPONSE, ANESTHESIA-**
7 **RELATED COMPLICATIONS**, or perforation of the uterus.

8 (2) A physician who performs an abortion shall report the
9 performance of that procedure to the department on forms prescribed
10 and provided by the department. A physician shall transmit a report

1 required under this subsection to the director within 7 days after
2 the performance of the abortion.

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

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

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

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

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

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

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

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

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

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

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

24 (k) The method used to perform the abortion.

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

26 (m) Whether the fetus showed evidence of life when separated,
27 expelled, or removed from the individual.

1 (n) The date of performance of the abortion.

2 (o) The method and source of payment for the abortion.

3 (p) A physical complication or death resulting from the
4 abortion and observed by the physician or reported to the physician
5 or his or her agent before the report required under subsection (2)
6 is transmitted to the director.

7 (q) The physician's signature and his or her state license
8 number.

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

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

26 (6) The department shall make available annually in aggregate
27 a statistical report summarizing the information submitted in each

1 individual report required by this section. The department shall
2 specifically summarize aggregate data regarding all of the
3 following in the annual statistical report:

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

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

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

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

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

23 (9) A person who discloses confidential identifying
24 information in violation of this section, section 2834(6), or
25 section 2837 is guilty of a felony punishable by imprisonment for
26 not more than 3 years or a fine of not more than \$5,000.00, or
27 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

1 INFORMATION:

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

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

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

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

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

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

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

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

16 (C) THE DATE THE ABORTION WAS PERFORMED.

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

21 (C) RETAIN A NOTICE OF COMPLIANCE FOR 5 YEARS OR UNTIL SUCH
22 TIME AS THE DEPARTMENT DETERMINES THAT A REPORT REQUIRED UNDER
23 SECTION 2835 OR 2837 THAT CORRESPONDS TO THE NOTICE OF COMPLIANCE
24 HAS BEEN RECEIVED BY THE DEPARTMENT. IF THE DEPARTMENT RECEIVES A
25 REPORT REQUIRED UNDER SECTION 2835 OR 2837 THAT CORRESPONDS TO A
26 NOTICE OF COMPLIANCE IT HAS RECEIVED UNDER THIS SECTION, THE
27 DEPARTMENT SHALL NOTIFY THE INDIVIDUAL WHO FILED THE NOTICE OF

1 COMPLIANCE THAT THE REPORT HAS BEEN RECEIVED AND DETERMINED TO
2 CORRESPOND TO THE NOTICE OF COMPLIANCE.

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

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

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

27 (7) THIS SECTION DOES NOT APPLY TO A PHYSICIAN WHO REPORTS A

1 PHYSICAL COMPLICATION OR DEATH RESULTING FROM AN ABORTION IN
2 COMPLIANCE WITH SECTION 2835 OR 2837.

3 (8) A PERSON WHO KNOWINGLY FILES A FALSE NOTICE OF COMPLIANCE
4 OR KNOWINGLY DISCLOSES CONFIDENTIAL IDENTIFYING INFORMATION IN
5 VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
6 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
7 \$1,000.00, OR BOTH.