

SENATE BILL No. 376

May 10, 2017, Introduced by Senators JONES, HORN, PAVLOV and MARLEAU and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2835 and 2837 (MCL 333.2835 and 333.2837), section 2835 as amended by 2012 PA 499 and section 2837 as added by 1999 PA 208, 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

1 performance of that procedure to the department on forms prescribed
2 and provided by the department. A physician shall transmit a report
3 required under this subsection to the director within 7 days after
4 the performance of the abortion.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (8) Except as otherwise provided in subsection (10), the
17 department or an employee of the department shall not disclose to a
18 person or entity outside the department the reports or the contents
19 of the reports required by this section in a manner or fashion so
20 as to permit the person or entity to whom the report is disclosed
21 to identify in any way the individual who is the subject of the
22 report, the identity of the physician who performed the abortion,
23 or the name or address of a facility in which an abortion was
24 performed. **NOTHING IN THIS SUBSECTION OR SUBSECTION (10) PREVENTS**
25 **THE DEPARTMENT FROM SUMMARIZING AGGREGATE DATA BASED ON THE COUNTY**
26 **IN WHICH ABORTIONS WERE PERFORMED IN THE ANNUAL STATISTICAL REPORT**
27 **REQUIRED UNDER SUBSECTION (6).**

1 (9) A person who discloses confidential identifying
2 information in violation of this section ~~, section 2834(6), or~~
3 section 2837 is guilty of a ~~felony~~ **MISDEMEANOR** punishable by
4 imprisonment for not more than ~~3 years~~ **1 YEAR** or a fine of not more
5 than ~~\$5,000.00,~~ **\$1,000.00**, or both.

6 (10) The department may release the reports or the contents of
7 the reports required by this section to the department of licensing
8 and regulatory affairs for regulatory purposes only. The department
9 of licensing and regulatory affairs or an employee of the
10 department of licensing or regulatory affairs shall not disclose to
11 a person or entity outside of the department of licensing and
12 regulatory affairs the reports or the contents of the reports
13 required by this section in a manner or fashion so as to permit the
14 person or entity to whom the report is disclosed to identify in any
15 way the individual who is the subject of the report, the identity
16 of the physician who performed the abortion, or the name or address
17 of a facility in which an abortion was performed.

18 Sec. 2837. (1) A physician shall file a written report with
19 the department regarding each patient who comes under the
20 physician's professional care and who suffers a physical
21 complication or death that is a primary, secondary, or tertiary
22 result of an abortion.

23 **(2) A MEDICAL EXAMINER WHO DETERMINES THAT A PHYSICAL**
24 **COMPLICATION IS THE PRIMARY, SECONDARY, OR TERTIARY CAUSE OF DEATH**
25 **SHALL FILE A WRITTEN REPORT WITH THE DEPARTMENT.**

26 (3) ~~(2)~~ The department shall summarize aggregate data from the
27 reports required under subsection (1) for purposes of inclusion

1 into the annual statistical report on abortion required under
2 section 2835.

3 (4) ~~(3)~~—The department shall destroy each individual report
4 required by this section and each copy of the report after
5 retaining the report for 5 years after the date the report is
6 received.

7 (5) ~~(4)~~—The department shall develop and distribute a
8 standardized form for the report required under subsection (1). The
9 department shall not include on the standardized reporting form the
10 name or address of the patient who is the subject of the report or
11 any other information that could reasonably be expected to identify
12 the patient who is the subject of the report. The department shall
13 include on the standardized form a statement specifying the time
14 period within which a report must be transmitted under section
15 2835(2).

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

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

27 (2) AN INDIVIDUAL WHO COMPLETES A NOTICE OF COMPLIANCE FORM

1 UNDER SUBSECTION (1) SHALL, WITHIN 1 YEAR FROM THE DATE THE
2 ABORTION WAS PERFORMED, TRANSMIT COPIES OF THE NOTICE OF COMPLIANCE
3 FORM BY EITHER CERTIFIED MAIL OR HAND DELIVERY TO EACH OF THE
4 FOLLOWING:

5 (A) THE PHYSICIAN WHO TREATED THE WOMAN FOR THE PHYSICAL
6 COMPLICATION, THE HEALTH FACILITY WHERE THE WOMAN IS ALLEGED TO
7 HAVE BEEN TREATED FOR THE PHYSICAL COMPLICATION, OR, IF THE WOMAN
8 HAS DIED AS A RESULT OF THE PHYSICAL COMPLICATION, THE MEDICAL
9 EXAMINER OF THE COUNTY IN WHICH THE DEATH OCCURED.

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

11 (C) THE DEPARTMENT.

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

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

16 (i) THE NAME, ADDRESS, TELEPHONE NUMBER, AND ELECTRONIC MAIL
17 ADDRESS OF THE INDIVIDUAL SUBMITTING THE NOTICE OF COMPLIANCE FORM.

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

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

22 (iv) THE AGE, IF KNOWN, OR THE APPROXIMATE AGE OF THE WOMAN
23 PRESENTED FOR TREATMENT OF THE PHYSICAL COMPLICATION.

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

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

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

3 (B) THE NAME OF THE PHYSICIAN PERFORMING THE ABORTION, IF
4 KNOWN.

5 (C) THE DATE THE ABORTION WAS PERFORMED.

6 (B) WITHIN 7 DAYS OF RECEIVING A NOTICE OF COMPLIANCE FORM
7 TRANSMITTED WITHIN THE TIME FRAME REQUIRED IN SUBSECTION (2),
8 PROVIDE THE CONFIRMATION DOCUMENT DESCRIBED IN SUBDIVISION (C) TO
9 ALL OF THE FOLLOWING:

10 (i) THE INDIVIDUAL SUBMITTING THE NOTICE OF COMPLIANCE FORM.

11 (ii) THE HEALTH FACILITY IDENTIFIED IN THE NOTICE OF
12 COMPLIANCE FORM AS PROVIDING TREATMENT TO A WOMAN FOR A PHYSICAL
13 COMPLICATION.

14 (iii) THE PHYSICIAN IDENTIFIED IN THE NOTICE OF COMPLIANCE
15 FORM AS PERFORMING THE ABORTION, IF KNOWN.

16 (iv) THE FACILITY IDENTIFIED IN THE NOTICE OF COMPLIANCE FORM
17 AS THE FACILITY WHERE THE ABORTION WAS PERFORMED.

18 (C) DEVELOP A CONFIRMATION DOCUMENT THAT PROVIDES ALL OF THE
19 FOLLOWING:

20 (i) WRITTEN CONFIRMATION TO THE INDIVIDUAL WHO SUBMITTED THE
21 NOTICE OF COMPLIANCE FORM THAT THE DEPARTMENT RECEIVED THE NOTICE
22 OF COMPLIANCE FORM.

23 (ii) INSTRUCTION TO EACH PHYSICIAN AND HEALTH FACILITY
24 IDENTIFIED IN THE NOTICE OF COMPLIANCE FORM THAT EACH PHYSICIAN AND
25 HEALTH FACILITY IDENTIFIED IN THE NOTICE OF COMPLIANCE FORM SHALL
26 RESPOND TO THE DEPARTMENT BY CONFIRMING OR DENYING THAT A WOMAN WAS
27 PRESENTED FOR AND RECEIVED TREATMENT FOR A PHYSICAL COMPLICATION

1 THAT CORRESPONDS WITH THE DATE AND OTHER INFORMATION SUPPLIED IN
2 THE NOTICE OF COMPLIANCE FORM.

3 (iii) INSTRUCTION TO EACH PHYSICIAN AND HEALTH FACILITY
4 IDENTIFIED IN THE NOTICE OF COMPLIANCE FORM THAT IF THE PHYSICIAN
5 OR HEALTH FACILITY PROVIDED TREATMENT TO A WOMAN FOR A PHYSICAL
6 COMPLICATION, THE PHYSICIAN AND HEALTH FACILITY SHALL INCLUDE A
7 COPY OF THE REPORT REQUIRED UNDER SECTION 2835 OR 2837, AS
8 APPLICABLE, WITH THEIR RESPONSE TO THE CONFIRMATION DOCUMENT.

9 (D) RETAIN A NOTICE OF COMPLIANCE FORM FOR 2 YEARS OR UNTIL
10 THE DEPARTMENT RECEIVES THE RESPONSE TO THE CONFIRMATION DOCUMENT
11 REQUIRED UNDER SUBDIVISION (C) (ii) AND, IF APPLICABLE, THE REPORT
12 REQUIRED UNDER SECTION 2835 OR 2837 CONFIRMING TREATMENT FOR A
13 PHYSICAL COMPLICATION FROM THE PHYSICIAN OR HEALTH FACILITY
14 IDENTIFIED IN THE NOTICE OF COMPLIANCE FORM AS PROVIDING TREATMENT
15 TO A WOMAN FOR A PHYSICAL COMPLICATION.

16 (E) NOT MORE THAN 90 DAYS AFTER SENDING NOTIFICATION TO EACH
17 PHYSICIAN AND HEALTH FACILITY IDENTIFIED IN THE NOTICE OF
18 COMPLIANCE FORM, NOTIFY THE INDIVIDUAL WHO SUBMITTED THE NOTICE OF
19 COMPLIANCE FORM OF ANY RESPONSES RECEIVED FROM EACH PHYSICIAN OR
20 HEALTH FACILITY IDENTIFIED IN THE NOTICE OF COMPLIANCE FORM.

21 (4) AN INDIVIDUAL WHO TRANSMITS A NOTICE OF COMPLIANCE FORM
22 UNDER SUBSECTION (2) SHALL NOT INCLUDE THE NAME, COMMON IDENTIFIERS
23 SUCH AS SOCIAL SECURITY NUMBER OR MOTOR VEHICLE OPERATOR'S LICENSE
24 NUMBER, OR OTHER INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT
25 POSSIBLE TO IDENTIFY IN ANY MANNER OR UNDER ANY CIRCUMSTANCES THE
26 WOMAN WHO SOUGHT TREATMENT FOR A PHYSICAL COMPLICATION. A STATE
27 AGENCY SHALL NOT COMPARE DATA IN AN ELECTRONIC OR OTHER INFORMATION

1 SYSTEM FILE WITH DATA IN ANOTHER ELECTRONIC OR OTHER INFORMATION
2 SYSTEM THAT WOULD RESULT IN IDENTIFYING IN ANY MANNER OR UNDER ANY
3 CIRCUMSTANCES AN INDIVIDUAL SEEKING TREATMENT FOR A PHYSICAL
4 COMPLICATION. STATISTICAL INFORMATION THAT MAY REVEAL THE IDENTITY
5 OF AN INDIVIDUAL SEEKING TREATMENT FOR A PHYSICAL COMPLICATION MUST
6 NOT BE MAINTAINED.

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

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

18 (7) THIS SECTION DOES NOT APPLY TO A PHYSICIAN WHO REPORTS A
19 PHYSICAL COMPLICATION OR DEATH RESULTING FROM AN ABORTION IN
20 COMPLIANCE WITH SECTION 2835 OR 2837.

21 (8) A PERSON WHO KNOWINGLY FILES A FALSE NOTICE OF COMPLIANCE
22 FORM OR KNOWINGLY DISCLOSES CONFIDENTIAL IDENTIFYING INFORMATION IN
23 VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
24 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
25 \$1,000.00, OR BOTH.

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.