

HOUSE BILL NO. 4417

March 21, 2019, Introduced by Reps. Reilly, Maddock, Howell, Miller, Steven Johnson, Bellino, O'Malley, LaFave and Rendon 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



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



1 pregnancy, and the first day of the last menstrual period.

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

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

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

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

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

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

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

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

28 (5) The department shall destroy each individual report
29 required by this section and each copy of the report after

1 retaining the report for 5 years after the date the report is
2 received.

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

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

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

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

13 (7) The reports required under this section are statistical
14 reports to be used only for medical and health purposes. ~~and The~~
15 ~~department shall not be incorporated~~ **incorporate the reports**
16 **required under this section** into the permanent official records of
17 the system of vital statistics.

18 (8) Except as otherwise provided in subsection (10), the
19 department or an employee of the department shall not disclose to a
20 person or entity outside the department the reports or the contents
21 of the reports required by this section in a manner or fashion so
22 as to permit the person or entity to whom the report is disclosed
23 to identify in any way the individual who is the subject of the
24 report, the identity of the physician who performed the abortion,
25 or the name or address of a facility in which an abortion was
26 performed. **Nothing in this subsection or subsection (10) prevents**
27 **the department from summarizing aggregate data based on the county**
28 **in which abortions were performed in the annual statistical report**
29 **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
28 into the annual statistical report on abortion required under
29 section 2835.



1 (4) ~~(3)~~—The department shall destroy each individual report
2 required by this section and each copy of the report after
3 retaining the report for 5 years after the date the report is
4 received.

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

14 (6) The department or an employee of the department shall not
15 disclose to a person or entity outside the department the reports
16 or the contents of the reports required by this section in a manner
17 or fashion so as to permit the person or entity to whom the report
18 is disclosed to identify in any way the individual who is the
19 subject of the report.

20 Sec. 2839. (1) Any individual who has actual knowledge that a
21 woman has sought treatment for or has died as a result of a
22 physical complication that is a result of an abortion may complete
23 and cause to be transmitted a notice of compliance form described
24 in subsection (3)(a) in the manner prescribed in subsection (2).

25 (2) An individual who completes a notice of compliance form
26 under subsection (1) shall, within 1 year from the date the
27 abortion was performed, transmit copies of the notice of compliance
28 form by either certified mail or hand delivery to each of the
29 following:



1 (a) The physician who treated the woman for the physical
2 complication, the health facility where the woman is alleged to
3 have been treated for the physical complication, or, if the woman
4 has died as a result of the physical complication, the medical
5 examiner of the county in which the death occurred.

6 (b) The physician who performed the abortion, if known.

7 (c) The department.

8 (3) The department shall do all of the following:

9 (a) Develop and make available in print and electronic format
10 a notice of compliance form for reporting only the following
11 information:

12 (i) The name, address, telephone number, and electronic mail
13 address of the individual submitting the notice of compliance form.

14 (ii) The name and address of the health facility where the
15 woman was presented for treatment of the physical complication.

16 (iii) The date the woman was presented for treatment of the
17 physical complication.

18 (iv) The age, if known, or the approximate age of the woman
19 presented for treatment of the physical complication.

20 (v) The type of physical complication that was treated and
21 whether death occurred.

22 (vi) The following information about the performance of the
23 abortion that led to the physical complication or death:

24 (A) The name and address of the facility where the abortion
25 was performed.

26 (B) The name of the physician performing the abortion, if
27 known.

28 (C) The date the abortion was performed.

29 (b) Within 7 days of receiving a notice of compliance form



transmitted within the time frame required in subsection (2),
provide the confirmation document described in subdivision (c) to
all of the following:

(i) The individual submitting the notice of compliance form.

(ii) The health facility identified in the notice of compliance
form as providing treatment to a woman for a physical complication.

(iii) The physician identified in the notice of compliance form
as performing the abortion, if known.

(iv) The facility identified in the notice of compliance form
as the facility where the abortion was performed.

(c) Develop a confirmation document that provides all of the
following:

(i) Written confirmation to the individual who submitted the
notice of compliance form that the department received the notice
of compliance form.

(ii) Instruction to each physician and health facility
identified in the notice of compliance form that each physician and
health facility identified in the notice of compliance form shall
respond to the department by confirming or denying that a woman was
presented for and received treatment for a physical complication
that corresponds with the date and other information supplied in
the notice of compliance form.

(iii) Instruction to each physician and health facility
identified in the notice of compliance form that if the physician
or health facility provided treatment to a woman for a physical
complication, the physician and health facility shall include a
copy of the report required under section 2835 or 2837, as
applicable, with their response to the confirmation document.

(d) Retain a notice of compliance form for 2 years or until



1 the department receives the response to the confirmation document
2 required under subdivision (c)(ii) and, if applicable, the report
3 required under section 2835 or 2837 confirming treatment for a
4 physical complication from the physician or health facility
5 identified in the notice of compliance form as providing treatment
6 to a woman for a physical complication.

7 (e) Not more than 90 days after sending notification to each
8 physician and health facility identified in the notice of
9 compliance form, notify the individual who submitted the notice of
10 compliance form of any responses received from each physician or
11 health facility identified in the notice of compliance form.

12 (4) An individual who transmits a notice of compliance form
13 under subsection (2) shall not include the name, common identifiers
14 such as social security number or motor vehicle operator's license
15 number, or other information or identifiers that would make it
16 possible to identify in any manner or under any circumstances the
17 woman who sought treatment for a physical complication. A state
18 agency shall not compare data in an electronic or other information
19 system file with data in another electronic or other information
20 system that would result in identifying in any manner or under any
21 circumstances an individual seeking treatment for a physical
22 complication. Statistical information that may reveal the identity
23 of an individual seeking treatment for a physical complication must
24 not be maintained.

25 (5) The department shall not incorporate a notice of
26 compliance form received under this section into the permanent
27 official records of the system of vital statistics. The department
28 may use a notice of compliance form as part of an investigation
29 regarding compliance with section 2835 or 2837.



1 (6) The department or an employee of the department shall not
2 disclose to a person or entity outside the department the reports
3 or the contents of the reports required by this section in a manner
4 or fashion so as to permit the person or entity to whom the report
5 is disclosed to identify in any way the person who is the subject
6 of the report.

7 (7) This section does not apply to a physician who reports a
8 physical complication or death resulting from an abortion in
9 compliance with section 2835 or 2837.

10 (8) A person who knowingly files a false notice of compliance
11 form or knowingly discloses confidential identifying information in
12 violation of this section is guilty of a misdemeanor punishable by
13 imprisonment for not more than 1 year or a fine of not more than
14 \$1,000.00, or both.

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

