

HOUSE BILL No. 4651

April 24, 2007, Introduced by Reps. Green, Meekhof, Robertson, Elsenheimer, Opsommer, Stahl, Palmer, Huizenga, Pearce, Shaffer, Knollenberg, LaJoy, Hildenbrand, Agema, Calley, Hoogendyk, Palsrok, Meltzer, Marleau, Rick Jones, Nitz, Steil, Caswell, Sheen, McDowell, Stakoe, Dean, Booher, Sheltroun, Mayes, Angerer, Emmons, Casperson, Caul and Clemente and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 2835 (MCL 333.2835), as amended by 2002 PA 562, 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:**

3 (a) "Abortion" means that term as defined in section 17015.

4 (b) "Physical complication" means a physical condition
5 occurring during or after an abortion that, under generally
6 accepted standards of medical practice, requires medical attention.
7 Physical complication includes, but is not limited to, infection,
8 hemorrhage, cervical laceration, **ALLERGIC RESPONSE, ANESTHESIA-**

1 **RELATED COMPLICATIONS**, or perforation of the uterus.

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

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

10 (a) The age of the woman at the time of the abortion.

11 (b) The marital status of the woman at the time of the
12 abortion.

13 (c) The race of the woman.

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

16 (e) The location and type of facility in which the abortion
17 was performed.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (c) Physical complications reported under subsection ~~(3)(e)~~
10 **(3)(P)** 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 shall
13 not be incorporated into the permanent official records of the
14 system of vital statistics.

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

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

26 **SEC. 2839. (1) ANY INDIVIDUAL WHO HAS ACTUAL KNOWLEDGE OF A**
27 **WOMAN WHO HAS SOUGHT TREATMENT FOR A PHYSICAL COMPLICATION THAT IS**

1 A RESULT OF AN ABORTION MAY COMPLETE AND CAUSE TO BE TRANSMITTED A
2 NOTICE OF COMPLIANCE FORM PRESCRIBED AND PROVIDED BY THE DEPARTMENT
3 IN THE MANNER PRESCRIBED IN SUBSECTION (2).

4 (2) AN INDIVIDUAL SHALL TRANSMIT COPIES OF THE NOTICE OF
5 COMPLIANCE BY EITHER CERTIFIED MAIL OR HAND DELIVERY TO EACH OF THE
6 FOLLOWING:

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

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

10 (C) THE DEPARTMENT.

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

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

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

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

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

21 (iv) THE AGE, IF KNOWN, OR THE APPROXIMATE AGE OF THE WOMAN
22 PRESENTING FOR TREATMENT OF A PHYSICAL COMPLICATION.

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

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

27 (A) THE NAME AND ADDRESS OF THE FACILITY WHERE THE ABORTION

1 WAS PERFORMED.

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

3 (C) THE DATE THE ABORTION WAS PERFORMED.

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

8 (C) RETAIN A NOTICE OF COMPLIANCE FOR 5 YEARS OR UNTIL SUCH
9 TIME AS THE DEPARTMENT DETERMINES THAT A REPORT REQUIRED UNDER
10 SECTION 2835 OR 2837 THAT CORRESPONDS TO THE NOTICE OF COMPLIANCE
11 HAS BEEN RECEIVED BY THE DEPARTMENT. IF THE DEPARTMENT RECEIVES A
12 REPORT REQUIRED UNDER SECTION 2835 OR 2837 THAT CORRESPONDS TO A
13 NOTICE OF COMPLIANCE IT HAS RECEIVED UNDER THIS SECTION, THE
14 DEPARTMENT SHALL NOTIFY THE INDIVIDUAL WHO FILED THE NOTICE OF
15 COMPLIANCE THAT THE REPORT HAS BEEN RECEIVED AND DETERMINED TO
16 CORRESPOND TO THE NOTICE OF COMPLIANCE.

17 (4) THE NOTICE OF COMPLIANCE DESCRIBED IN SUBSECTION (2) SHALL
18 NOT CONTAIN THE NAME, COMMON IDENTIFIERS SUCH AS SOCIAL SECURITY
19 NUMBER OR MOTOR VEHICLE OPERATOR'S LICENSE NUMBER, OR OTHER
20 INFORMATION OR IDENTIFIERS THAT WOULD MAKE IT POSSIBLE TO IDENTIFY
21 IN ANY MANNER OR UNDER ANY CIRCUMSTANCES THE WOMAN WHO SOUGHT
22 TREATMENT FOR A PHYSICAL COMPLICATION. A STATE AGENCY SHALL NOT
23 COMPARE DATA IN AN ELECTRONIC OR OTHER INFORMATION SYSTEM FILE WITH
24 DATA IN ANOTHER ELECTRONIC OR OTHER INFORMATION SYSTEM THAT WOULD
25 RESULT IN IDENTIFYING IN ANY MANNER OR UNDER ANY CIRCUMSTANCES AN
26 INDIVIDUAL SEEKING TREATMENT FOR A PHYSICAL COMPLICATION.
27 STATISTICAL INFORMATION THAT MAY REVEAL THE IDENTITY OF AN

1 INDIVIDUAL SEEKING TREATMENT FOR A PHYSICAL COMPLICATION SHALL NOT
2 BE MAINTAINED.

3 (5) A NOTICE OF COMPLIANCE SHALL NOT BE INCORPORATED INTO THE
4 PERMANENT OFFICIAL RECORDS OF THE SYSTEM OF VITAL STATISTICS. A
5 NOTICE OF COMPLIANCE MAY BE USED AS PART OF AN INVESTIGATION
6 REGARDING COMPLIANCE WITH SECTION 2835 OR 2837.

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

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

16 (8) A PERSON WHO KNOWINGLY FILES A FALSE NOTICE OF COMPLIANCE
17 OR KNOWINGLY DISCLOSES CONFIDENTIAL IDENTIFYING INFORMATION IN
18 VIOLATION OF THIS SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
19 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
20 \$1,000.00, OR BOTH.