

By: Campbell

S.B. No. 85

A BILL TO BE ENTITLED

AN ACT

1
2 relating to reporting requirements by certain physicians and health
3 care facilities for abortion complications; authorizing a civil
4 penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter A, Chapter 171, Health and Safety
7 Code, is amended by adding Section 171.006 to read as follows:

8 Sec. 171.006. ABORTION COMPLICATION REPORTING
9 REQUIREMENTS; CIVIL PENALTY. (a) In this section "abortion
10 complication" means any harmful event or adverse outcome with
11 respect to a patient related to an abortion that is performed on the
12 patient and that is diagnosed or treated by a health care
13 practitioner or at a health care facility and includes:

- 14 (1) shock;
15 (2) uterine perforation;
16 (3) cervical laceration;
17 (4) hemorrhage;
18 (5) aspiration or allergic response;
19 (6) infection;
20 (7) sepsis;
21 (8) death of the patient;
22 (9) incomplete abortion;
23 (10) damage to the uterus; or
24 (11) an infant born alive after the abortion.

1 (b) The reporting requirements of this section apply only
2 to:

3 (1) a physician who:

4 (A) performs at an abortion facility an abortion
5 that results in an abortion complication diagnosed or treated by
6 that physician; or

7 (B) diagnoses or treats at an abortion facility
8 an abortion complication that is the result of an abortion
9 performed by another physician at the facility; or

10 (2) a health care facility that is a hospital,
11 abortion facility, freestanding emergency medical care facility,
12 or health care facility that provides emergency medical care, as
13 defined by Section [773.003](#).

14 (c) A physician described by Subsection (b)(1) shall submit
15 to the commission in the form and manner prescribed by commission
16 rule a report on each abortion complication diagnosed or treated by
17 that physician or at the abortion facility not later than 72 hours
18 after the complication is diagnosed or treated. Each health care
19 facility described by Subsection (b)(2) shall electronically
20 submit to the commission in the form and manner prescribed by
21 commission rule a report on each abortion complication diagnosed or
22 treated at the facility not later than the 30th day after the date
23 on which the complication is diagnosed or treatment is provided for
24 the complication.

25 (d) The commission shall develop a form for reporting an
26 abortion complication under Subsection (c) and publish the form on
27 the commission's Internet website. The executive commissioner by

1 rule may adopt procedures to reduce duplication in reporting under
2 this section.

3 (e) A report under this section may not identify by any
4 means the physician performing an abortion, other than a physician
5 described by Subsection (b)(1), or the patient on whom the abortion
6 was performed.

7 (f) A report under this section must identify the name of
8 the physician submitting the report or the name and type of health
9 care facility submitting the report and must include, if known, for
10 each abortion complication:

11 (1) the date of the abortion that caused or may have
12 caused the complication;

13 (2) the type of abortion that caused or may have caused
14 the complication;

15 (3) the gestational age of the fetus at the time the
16 abortion was performed;

17 (4) the name and type of the facility in which the
18 abortion was performed;

19 (5) the date the complication was diagnosed or
20 treated;

21 (6) the name and type of any facility other than the
22 reporting facility in which the complication was diagnosed or
23 treated;

24 (7) a description of the complication;

25 (8) the patient's year of birth, race, marital status,
26 and state and county of residence;

27 (9) the date of the first day of the patient's last

1 menstrual period that occurred before the date of the abortion that
2 caused or may have caused the complication;

3 (10) the number of previous live births of the
4 patient; and

5 (11) the number of previous induced abortions of the
6 patient.

7 (g) Except as provided by Section 245.023, all information
8 and records held by the commission under this section are
9 confidential and are not open records for the purposes of Chapter
10 552, Government Code. That information may not be released or made
11 public on subpoena or otherwise, except that release may be made:

12 (1) for statistical purposes, but only if a person,
13 patient, or health care facility is not identified;

14 (2) with the consent of each person, patient, and
15 facility identified in the information released;

16 (3) to medical personnel, appropriate state agencies,
17 or county and district courts to enforce this chapter; or

18 (4) to appropriate state licensing boards to enforce
19 state licensing laws.

20 (h) A report submitted under this section must include the
21 most specific, accurate, and complete reporting for the highest
22 level of specificity.

23 (i) The commission shall develop and publish on the
24 commission's Internet website an annual report that aggregates on a
25 statewide basis each abortion complication required to be reported
26 under Subsection (f) for the previous calendar year.

27 (j) A physician described by Subsection (b)(1) or health

1 care facility that violates this section is subject to a civil
2 penalty of \$500 for each violation. The attorney general, at the
3 request of the commission or appropriate licensing agency, may file
4 an action to recover a civil penalty assessed under this subsection
5 and may recover attorney's fees and costs incurred in bringing the
6 action. Each day of a continuing violation constitutes a separate
7 ground for recovery.

8 (k) The third separate violation of this section
9 constitutes cause for the revocation or suspension of a physician's
10 or health care facility's license, permit, registration,
11 certificate, or other authority or for other disciplinary action
12 against the physician or facility by the appropriate licensing
13 agency.

14 (l) Not later than the seventh day after the date the
15 commission discovers a violation of this section by a physician,
16 the commission shall notify the Texas Medical Board of the
17 violation.

18 SECTION 2. Not later than January 1, 2018:

19 (1) the Health and Human Services Commission shall
20 develop the forms required by Section 171.006, Health and Safety
21 Code, as added by this Act; and

22 (2) the executive commissioner of the Health and Human
23 Services Commission shall adopt the rules necessary to implement
24 Section 171.006, Health and Safety Code, as added by this Act.

25 SECTION 3. The Health and Human Services Commission shall
26 establish an electronic reporting system for purposes of Section
27 171.006, Health and Safety Code, as added by this Act, as soon as

1 practicable after the effective date of this Act.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect on the 91st day after the last day of the
7 legislative session.