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H.B. No. 2962

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 performs an abortion at an  
4 abortion facility if the abortion results in an abortion  
5 complication that is diagnosed or treated by that physician or at  
6 the abortion facility; or

7           (2) a health care facility that is a hospital,  
8 abortion facility, freestanding emergency medical care facility,  
9 or health care facility that provides emergency medical care, as  
10 defined by Section 773.003.

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

22       (d) The department shall develop a form for reporting an  
23 abortion complication under Subsection (c) and publish the form on  
24 the department's Internet website. The executive commissioner by  
25 rule may adopt procedures to reduce duplication in reporting under  
26 this section.

27       (e) A report under this section may not identify by any

1 means the physician performing an abortion, other than a physician  
2 described by Subsection (b)(1), or the patient.

3 (f) A report under this section must identify the name of  
4 the physician submitting the report or the name and type of facility  
5 submitting the report and must include, if known, for each abortion  
6 complication:

7 (1) the date of the abortion that caused or may have  
8 caused the complication;

9 (2) the type of abortion that caused or may have caused  
10 the complication;

11 (3) the gestational age of the fetus when the abortion  
12 was performed;

13 (4) the name and type of the facility in which the  
14 abortion was performed;

15 (5) the date the complication was diagnosed or  
16 treated;

17 (6) the name and type of any facility other than the  
18 reporting facility in which the complication was diagnosed or  
19 treated;

20 (7) a description of the complication;

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

23 (9) the date of the first day of the patient's last  
24 menstrual period that occurred before the date of the abortion that  
25 caused or may have caused the complication;

26 (10) the number of previous live births of the  
27 patient; and

1           (11) the number of previous induced abortions of the  
2 patient.

3           (g) Except as provided by Section 245.023, all information  
4 and records held by the department under this section are  
5 confidential and are not open records for the purposes of Chapter  
6 552, Government Code. That information may not be released or made  
7 public on subpoena or otherwise, except that release may be made:

8           (1) for statistical purposes, but only if a person,  
9 patient, or facility is not identified;

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

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

14           (4) to appropriate state licensing boards to enforce  
15 state licensing laws.

16           (h) A report submitted under this section must meet the  
17 federal reporting requirements that mandate the most specific,  
18 accurate, and complete coding and reporting for the highest level  
19 of specificity.

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

24           (j) A physician described by Subsection (b)(1) or facility  
25 that violates this section is subject to a civil penalty of \$500 for  
26 each violation. The attorney general, at the request of the  
27 department or appropriate licensing agency, may file an action to

1 recover a civil penalty assessed under this subsection and may  
2 recover attorney's fees and costs incurred in bringing the action.  
3 Each day of a continuing violation constitutes a separate ground  
4 for recovery.

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

10 (l) The department shall notify the Texas Medical Board of  
11 any violations of this section by a physician.

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

13 (1) the Department of State Health Services shall  
14 develop the forms required by Section 171.006, Health and Safety  
15 Code, as added by this Act; and

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

19 SECTION 3. The Department of State Health Services shall  
20 establish an electronic reporting system for purposes of Section  
21 171.006, Health and Safety Code, as added by this Act, as soon as  
22 practicable after the effective date of this Act.

23 SECTION 4. This Act takes effect September 1, 2017.