

By: Capriglione, Sheffield, Springer, et al.

H.B. No. 2962

Substitute the following for H.B. No. 2962:

By: Smithee

C.S.H.B. No. 2962

A BILL TO BE ENTITLED

1 AN ACT
2 relating to reporting requirements by certain health care
3 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 to
2 a health care facility that is a hospital, abortion facility,
3 freestanding emergency medical care facility, or health care
4 facility that provides emergency medical care, as defined by
5 Section 773.003.

6 (c) Each facility described by Subsection (b) shall submit
7 to the department in the form and manner prescribed by department
8 rule a quarterly report on each abortion complication diagnosed or
9 treated at the facility.

10 (d) The department shall develop a form for reporting an
11 abortion complication under Subsection (c) and publish the form on
12 the department's Internet website.

13 (e) A report under this section may not identify by any
14 means the physician performing an abortion or the patient.

15 (f) A report under this section must identify the name and
16 type of facility submitting the report and must include, if known,
17 for each abortion complication:

18 (1) the date of the abortion that caused or may have
19 caused the complication;

20 (2) the type of abortion that caused or may have caused
21 the complication;

22 (3) the gestational age of the fetus when the abortion
23 was performed;

24 (4) the name and type of the facility in which the
25 abortion was performed;

26 (5) the date the complication was diagnosed or
27 treated;

1 (6) the name and type of any facility other than the
2 reporting facility in which the complication was diagnosed or
3 treated;

4 (7) a description of the complication;

5 (8) the number of previous live births of the patient;
6 and

7 (9) the number of previous induced abortions of the
8 patient.

9 (g) Except as provided by Section 245.023, all information
10 and records held by the department under this section are
11 confidential and are not open records for the purposes of Chapter
12 552, Government Code. That information may not be released or made
13 public on subpoena or otherwise, except that release may be made:

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

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

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

20 (4) to appropriate state licensing boards to enforce
21 state licensing laws.

22 (h) A report submitted under this section must meet the
23 federal reporting requirements that mandate the most specific,
24 accurate, and complete coding and reporting for the highest level
25 of specificity.

26 (i) The department shall develop and publish on the
27 department's Internet website an annual report that aggregates on a

1 statewide basis each abortion complication required to be reported
2 under Subsection (f) for the previous calendar year.

3 (j) A facility that violates this section is subject to a
4 civil penalty of \$500 for each violation. The attorney general, at
5 the request of the department, may file an action to recover a civil
6 penalty assessed under this subsection and may recover attorney's
7 fees and costs incurred in bringing the action. Each day of a
8 continuing violation constitutes a separate ground for recovery.

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

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

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

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

21 SECTION 3. This Act takes effect September 1, 2017.