86R13804 LED-F

By:  Burns H.B. No. 3321

A BILL TO BE ENTITLED

AN ACT

relating to reporting requirements by certain physicians for abortion complications.

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

SECTION 1.  Section 171.006, Health and Safety Code, as added by Chapter 4 (H.B. 13), Acts of the 85th Legislature, 1st Called Session, 2017, is redesignated as Section 171.007, Health and Safety Code, and amended to read as follows:

Sec. 171.007 [~~171.006~~].  ABORTION COMPLICATION REPORTING REQUIREMENTS; CIVIL PENALTY. (a) In this section "abortion complication" means any harmful event or adverse outcome with respect to a patient related to an abortion that is performed on the patient and that is diagnosed or treated by a health care practitioner or at a health care facility and includes:

(1)  shock;

(2)  uterine perforation;

(3)  cervical laceration;

(4)  hemorrhage;

(5)  aspiration or allergic response;

(6)  infection;

(7)  sepsis;

(8)  death of the patient;

(9)  incomplete abortion;

(10)  damage to the uterus; or

(11)  an infant born alive after the abortion.

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

(1)  a physician who:

(A)  performs at an abortion facility an abortion that results in an abortion complication diagnosed or treated by that physician; [~~or~~]

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

(C)  diagnoses or treats at a public health clinic, hospital, or other health care facility an abortion complication that the physician knows or reasonably believes is the result of an abortion performed by another physician; or

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

(c)  A physician described by Subsection (b)(1) shall electronically submit to the commission in the form and manner prescribed by commission rule a report on each abortion complication diagnosed or treated by that physician not later than the end of the third business day after the date on which the complication is diagnosed or treated. Each health care facility described by Subsection (b)(2) shall electronically submit to the commission in the form and manner prescribed by commission rule a report on each abortion complication diagnosed or treated at the facility not later than the 30th day after the date on which the complication is diagnosed or treatment is provided for the complication.

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

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

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

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

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

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

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

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

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

(7)  a description of the complication;

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

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

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

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

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

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

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

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

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

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

(i)  The commission shall develop and publish on the commission's Internet website an annual report that aggregates on a statewide basis each abortion complication required to be reported under Subsection (f) for the previous calendar year. The annual report may not include any duplicative data.

(j)  A physician described by Subsection (b)(1) or health care facility that violates this section is subject to a civil penalty of $500 for each violation. The attorney general, at the request of the commission or appropriate licensing agency, may file an action to recover a civil penalty assessed under this subsection and may recover attorney's fees and costs incurred in bringing the action. Each day of a continuing violation constitutes a separate ground for recovery.

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

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

SECTION 2.  This Act takes effect September 1, 2019.