

HOUSE BILL NO. 4106

February 15, 2023, Introduced by Reps. Outman and Alexander and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 2835 and 2837 (MCL 333.2835 and 333.2837), section 2835 as amended by 2012 PA 499 and section 2837 as added by 1999 PA 208.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2835. (1) As used in this section and section 2837,
2 "physical complication" means a physical condition occurring during
3 or after an abortion that, under generally accepted standards of
4 medical practice, requires medical attention. Physical complication

1 includes, but is not limited to, infection, hemorrhage, cervical
2 laceration, or perforation of the uterus.

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

9 (3) Each report of an abortion required under subsection (2)
10 ~~shall~~**must** contain only the following information and no other
11 information:

12 (a) The age of the individual at the time of the abortion.

13 (b) The marital status of the individual at the time of the
14 abortion.

15 (c) The race and, if applicable, Hispanic ethnicity of the
16 individual.

17 (d) The city or township, county, and state in which the
18 individual resided at the time of the abortion.

19 (e) The name and address of the facility and the type of
20 facility in which the abortion was performed.

21 (f) The source of referral to the ~~physician~~**attending health**
22 **care professional** performing the abortion.

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

24 (h) The number of previous pregnancies ending in spontaneous
25 abortion.

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

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

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

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

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

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

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

7 (p) A physical complication or death resulting from the
8 abortion and observed by the ~~physician~~**attending health care**
9 **professional** or reported to the ~~physician~~**attending health care**
10 **professional** or ~~his or her~~**the attending health care professional's**
11 agent before the report required under subsection (2) is
12 transmitted to the director.

13 (q) The ~~physician's~~**attending health care professional's**
14 signature and ~~his or her~~ state license number.

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

28 (5) The department shall destroy each individual report
29 required by this section and each copy of the report after

1 retaining the report for 5 years after the date the report is
2 received.

3 (6) The department shall make available annually in aggregate
4 a statistical report summarizing the information submitted in each
5 individual report required by this section. The department shall
6 specifically summarize aggregate data regarding all of the
7 following in the annual statistical report:

8 (a) The period of gestation in 4-week intervals from 5 weeks
9 through 28 weeks.

10 (b) Abortions performed on individuals aged 17 and under.

11 (c) Physical complications reported under subsection (3)(p)
12 and section 2837.

13 (7) The reports required under this section are statistical
14 reports to be used only for medical and health purposes and ~~shall~~
15 **must** not be incorporated into the permanent official records of the
16 system of vital statistics.

17 (8) Except as otherwise provided in subsection (10), the
18 department or an employee of the department shall not disclose to a
19 person or entity outside the department the reports or the contents
20 of the reports required by this section in a manner or fashion so
21 as to permit the person or entity to whom the report is disclosed
22 to identify in any way the individual who is the subject of the
23 report, the identity of the ~~physician~~**attending health care**
24 **professional** who performed the abortion, or the name or address of
25 a facility in which an abortion was performed.

26 (9) A person who discloses confidential identifying
27 information in violation of this section, section 2834(6), or
28 section 2837 is guilty of a felony punishable by imprisonment for
29 not more than 3 years or a fine of not more than \$5,000.00, or

1 both.

2 (10) The department may release the reports or the contents of
3 the reports required by this section to the department of licensing
4 and regulatory affairs for regulatory purposes only. The department
5 of licensing and regulatory affairs or an employee of the
6 department of licensing or regulatory affairs shall not disclose to
7 a person or entity outside of the department of licensing and
8 regulatory affairs the reports or the contents of the reports
9 required by this section in a manner or fashion so as to permit the
10 person or entity to whom the report is disclosed to identify in any
11 way the individual who is the subject of the report, the identity
12 of the ~~physician~~ **attending health care professional** who performed
13 the abortion, or the name or address of a facility in which an
14 abortion was performed.

15 Sec. 2837. (1) ~~A physician~~ **An attending health care**
16 **professional** shall file a written report with the department
17 regarding each patient who comes under the ~~physician's~~ **attending**
18 **health care professional's** professional care and who suffers a
19 physical complication or death that is a primary, secondary, or
20 tertiary result of an abortion.

21 (2) The department shall summarize aggregate data from the
22 reports required under subsection (1) for purposes of inclusion
23 into the annual statistical report on abortion required under
24 section 2835.

25 (3) The department shall destroy each individual report
26 required by this section and each copy of the report after
27 retaining the report for 5 years after the date the report is
28 received.

29 (4) The department shall develop and distribute a standardized

1 form for the report required under subsection (1). The department
2 shall not include on the standardized reporting form the name or
3 address of the patient who is the subject of the report or any
4 other information that could reasonably be expected to identify the
5 patient who is the subject of the report. The department shall
6 include on the standardized form a statement specifying the time
7 period within which a report must be transmitted under section
8 2835(2).