

1-1 By: Capriglione, et al. (Senate Sponsor - Campbell) H.B. No. 2962
 1-2 (In the Senate - Received from the House May 15, 2017;
 1-3 May 16, 2017, read first time and referred to Committee on Health &
 1-4 Human Services; May 19, 2017, reported favorably by the following
 1-5 vote: Yeas 5, Nays 3; May 19, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9		X		
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14			X	
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to reporting requirements by certain physicians and health
 1-20 care facilities for abortion complications; authorizing a civil
 1-21 penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subchapter A, Chapter 171, Health and Safety
 1-24 Code, is amended by adding Section 171.006 to read as follows:

1-25 Sec. 171.006. ABORTION COMPLICATION REPORTING
 1-26 REQUIREMENTS; CIVIL PENALTY. (a) In this section "abortion
 1-27 complication" means any harmful event or adverse outcome with
 1-28 respect to a patient related to an abortion that is performed on the
 1-29 patient and that is diagnosed or treated by a health care
 1-30 practitioner or at a health care facility and includes:

- 1-31 (1) shock;
- 1-32 (2) uterine perforation;
- 1-33 (3) cervical laceration;
- 1-34 (4) hemorrhage;
- 1-35 (5) aspiration or allergic response;
- 1-36 (6) infection;
- 1-37 (7) sepsis;
- 1-38 (8) death of the patient;
- 1-39 (9) incomplete abortion;
- 1-40 (10) damage to the uterus; or
- 1-41 (11) an infant born alive after the abortion.

1-42 (b) The reporting requirements of this section apply only
 1-43 to:

1-44 (1) a physician who performs an abortion at an
 1-45 abortion facility if the abortion results in an abortion
 1-46 complication that is diagnosed or treated by that physician or at
 1-47 the abortion facility; or

1-48 (2) a health care facility that is a hospital,
 1-49 abortion facility, freestanding emergency medical care facility,
 1-50 or health care facility that provides emergency medical care, as
 1-51 defined by Section 773.003.

1-52 (c) A physician described by Subsection (b)(1) shall submit
 1-53 to the department in the form and manner prescribed by department
 1-54 rule a report on each abortion complication diagnosed or treated by
 1-55 that physician or at the abortion facility not later than 72 hours
 1-56 after the complication is diagnosed or treated. Each facility
 1-57 described by Subsection (b)(2) shall electronically submit to the
 1-58 department in the form and manner prescribed by department rule a
 1-59 report on each abortion complication diagnosed or treated at the
 1-60 facility not later than the 30th day after the date on which the
 1-61 complication is diagnosed or treatment is provided for the

2-1 complication.

2-2 (d) The department shall develop a form for reporting an
 2-3 abortion complication under Subsection (c) and publish the form on
 2-4 the department's Internet website. The executive commissioner by
 2-5 rule may adopt procedures to reduce duplication in reporting under
 2-6 this section.

2-7 (e) A report under this section may not identify by any
 2-8 means the physician performing an abortion, other than a physician
 2-9 described by Subsection (b)(1), or the patient.

2-10 (f) A report under this section must identify the name of
 2-11 the physician submitting the report or the name and type of facility
 2-12 submitting the report and must include, if known, for each abortion
 2-13 complication:

2-14 (1) the date of the abortion that caused or may have
 2-15 caused the complication;

2-16 (2) the type of abortion that caused or may have caused
 2-17 the complication;

2-18 (3) the gestational age of the fetus when the abortion
 2-19 was performed;

2-20 (4) the name and type of the facility in which the
 2-21 abortion was performed;

2-22 (5) the date the complication was diagnosed or
 2-23 treated;

2-24 (6) the name and type of any facility other than the
 2-25 reporting facility in which the complication was diagnosed or
 2-26 treated;

2-27 (7) a description of the complication;

2-28 (8) the patient's year of birth, race, marital status,
 2-29 and state and county of residence;

2-30 (9) the date of the first day of the patient's last
 2-31 menstrual period that occurred before the date of the abortion that
 2-32 caused or may have caused the complication;

2-33 (10) the number of previous live births of the
 2-34 patient; and

2-35 (11) the number of previous induced abortions of the
 2-36 patient.

2-37 (g) Except as provided by Section 245.023, all information
 2-38 and records held by the department under this section are
 2-39 confidential and are not open records for the purposes of Chapter
 2-40 552, Government Code. That information may not be released or made
 2-41 public on subpoena or otherwise, except that release may be made:

2-42 (1) for statistical purposes, but only if a person,
 2-43 patient, or facility is not identified;

2-44 (2) with the consent of each person, patient, and
 2-45 facility identified in the information released;

2-46 (3) to medical personnel, appropriate state agencies,
 2-47 or county and district courts to enforce this chapter; or

2-48 (4) to appropriate state licensing boards to enforce
 2-49 state licensing laws.

2-50 (h) A report submitted under this section must meet the
 2-51 federal reporting requirements that mandate the most specific,
 2-52 accurate, and complete coding and reporting for the highest level
 2-53 of specificity.

2-54 (i) The department shall develop and publish on the
 2-55 department's Internet website an annual report that aggregates on a
 2-56 statewide basis each abortion complication required to be reported
 2-57 under Subsection (f) for the previous calendar year.

2-58 (j) A physician described by Subsection (b)(1) or facility
 2-59 that violates this section is subject to a civil penalty of \$500 for
 2-60 each violation. The attorney general, at the request of the
 2-61 department or appropriate licensing agency, may file an action to
 2-62 recover a civil penalty assessed under this subsection and may
 2-63 recover attorney's fees and costs incurred in bringing the action.
 2-64 Each day of a continuing violation constitutes a separate ground
 2-65 for recovery.

2-66 (k) The third separate violation of this section
 2-67 constitutes cause for the revocation or suspension of a physician's
 2-68 or facility's license, permit, registration, certificate, or other
 2-69 authority or for other disciplinary action against the physician or

3-1 facility by the appropriate licensing agency.

3-2 (1) The department shall notify the Texas Medical Board of
3-3 any violations of this section by a physician.

3-4 SECTION 2. Not later than January 1, 2018:

3-5 (1) the Department of State Health Services shall
3-6 develop the forms required by Section 171.006, Health and Safety
3-7 Code, as added by this Act; and

3-8 (2) the executive commissioner of the Health and Human
3-9 Services Commission shall adopt the rules necessary to implement
3-10 Section 171.006, Health and Safety Code, as added by this Act.

3-11 SECTION 3. The Department of State Health Services shall
3-12 establish an electronic reporting system for purposes of Section
3-13 171.006, Health and Safety Code, as added by this Act, as soon as
3-14 practicable after the effective date of this Act.

3-15 SECTION 4. This Act takes effect September 1, 2017.

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