

BILL ANALYSIS

Senate Research Center

H.B. 2962
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

If a patient suffers a complication from an abortion, the patient often returns to the clinic where the procedure took place or may pursue treatment at another medical facility. The Texas Health and Safety Code requires health care facilities to report surgical site infections and complications from various procedures in order to track the standard of care. However, there are no current specific reporting requirements in statute for complications resulting from an abortion. H.B. 2962 requires that certain health care facilities report complications from abortions and for the Department of State Health Services to publish this data in an annual report.

H.B. 2962 is the companion bill to S.B. 1602, which was previously voted out of this committee and already passed the full senate. There are a couple of key differences in the House Bill:

- First, it requires that complications be reported within 30 days of diagnosis of a complication instead of quarterly reporting;
- Second, if a complication occurs at an abortion facility at the time of the abortion, the physician performing the abortion is required to submit a report within 72 hours.

H.B. 2962 amends current law relating to reporting requirements by certain physicians and health care facilities for abortion complications and authorizes a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 171.006, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 171, Health and Safety Code, by adding Section 171.006, as follows:

Sec. 171.006. ABORTION COMPLICATION REPORTING REQUIREMENTS; CIVIL PENALTY. (a) Provides that 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 shock, uterine perforation, cervical laceration, hemorrhage, aspiration or allergic response, infection, sepsis, death of the patient, incomplete abortion, damage to the uterus, or an infant born alive after the abortion.

(b) Provides that the reporting requirements of this section apply only to:

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

(c) Requires a physician described by Subsection (b)(1) to submit to the Department of State Health Services (DSHS) in the form and manner prescribed by DSHS rule a report on each abortion complication diagnosed or treated by that physician or at the abortion facility not later than 72 hours after the complication is diagnosed or treated. Requires each facility described by Subsection (b)(2) to electronically submit to DSHS in the form and manner prescribed by DSHS 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) Requires DSHS to develop a form for reporting an abortion complication under Subsection (c) and publish the form on DSHS' Internet website. Authorizes the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt procedures to reduce duplication in reporting under this section.

(e) Prohibits a report under this section from identifying by any means the physician performing an abortion, other than a physician described by Subsection (b)(1), or the patient.

(f) Requires that a report under this section identify the name of the physician submitting the report or the name and type of facility submitting the report and to include, if known, for each abortion complication, the date of the abortion that caused or may have caused the complication, the type of abortion that caused or may have caused the complication, the gestational age of the fetus when the abortion was performed, the name and type of the facility in which the abortion was performed, the date the complication was diagnosed or treated, the name and type of any facility other than the reporting facility in which the complication was diagnosed or treated, a description of the complication, the patient's year of birth, race, marital status, and state and county of residence, 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, the number of previous live births of the patient, and the number of previous induced abortions of the patient.

(g) Provides that except as provided by Section 245.023 (Public Information; Toll-Free Telephone Number), all information and records held by DSHS under this section are confidential and are not open records for the purposes of Chapter 552 (Public Information), Government Code. Prohibits that information from being released or made public on subpoena or otherwise, except that release is authorized to be made for statistical purposes, but only if a person, patient, or facility is not identified, with the consent of each person, patient, and facility identified in the information released, to medical personnel, appropriate state agencies, or county and district courts to enforce this chapter, or to appropriate state licensing boards to enforce state licensing laws.

(h) Requires that a report submitted under this section meet the federal reporting requirements that mandate the most specific, accurate, and complete coding and reporting for the highest level of specificity.

(i) Requires DSHS to develop and publish on its 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.

(j) Provides that a physician described by Subsection (b)(1) or facility that violates this section is subject to a civil penalty of \$500 for each violation. Authorizes the Texas attorney general, at the request of DSHS or the appropriate

licensing agency, to file an action to recover a civil penalty assessed under this subsection and to recover attorney's fees and costs incurred in bringing the action. Provides that each day of a continuing violation constitutes a separate ground for recovery.

(k) Provides that the third separate violation of this section constitutes cause for the revocation or suspension of a physician's or 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) Requires DSHS to notify the Texas Medical Board of any violations of this section by a physician.

SECTION 2. Provides that, not later than January 1, 2018:

(1) DSHS is required to develop the forms required by Section 171.006, Health and Safety Code, as added by this Act; and

(2) the executive commissioner is required to adopt the rules necessary to implement Section 171.006, Health and Safety Code, as added by this Act.

SECTION 3. Requires DSHS to establish an electronic reporting system for purposes of Section 171.006, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 4. Effective date: September 1, 2017.