**A** **BILL**

TO AMEND ARTICLE 1, CHAPTER 41, TITLE 44 OF THE 1976 CODE, RELATING TO ABORTIONS, BY ADDING SECTION 44-41-83, TO ENACT THE “ABORTION COMPLICATION REPORTING ACT,” TO PROVIDE THAT REPORTS OF COMPLICATIONS TREATED BY A MEDICAL PROFESSIONAL ARISING FROM AN ABORTION SHALL BE REPORTED TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE CONTENTS AND TIMING OF THE REPORTS, TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO MAKE CERTAIN REPORTS FROM THE AGGREGATE DATA OF THE INDIVIDUAL REPORTS FILED BY MEDICAL PROFESSIONALS, TO PROVIDE FOR THE CONTENTS OF THE REPORTS, TO PROVIDE THAT REPORTS FILED BY MEDICAL PROFESSIONALS ARE CONFIDENTIAL AND NOT SUBJECT TO PUBLIC DISCLOSURE, TO PROTECT THE IDENTITY OF A WOMAN WHO OBTAINED OR ATTEMPTED TO OBTAIN AN ABORTION, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be referred to and cited as the “Abortion Complication Reporting Act.”

SECTION 2. Article 1, Chapter 41, Title 44 of the 1976 Code is amended by adding:

“Section 44-41-83. (A) For the purposes of this section:

(1) ‘Complication’ means signs or symptoms consistent with any adverse physical condition arising from the performance or attempted performance of an abortion, including, but not limited to, the erroneous diagnosis of an intrauterine pregnancy resulting in an unnecessary abortion procedure being attempted or abortifacient administered; failure of attempted medical or surgical abortion; retained products of conception; an undiagnosed ectopic pregnancy concurrent with an induced abortion; a puncture or laceration of pelvic, abdominal, or retroperitoneal organs; retained pieces of osmotic dilators; hemorrhage; coagulopathy; uterine atony; reaction to vasopressin treatment for bleeding; infection; cramps; vomiting; diarrhea; embolism; vasovagal reaction; asthma; seizures; cardiac arrest; respiratory arrest; liver or kidney function damage; metabolic disorder; adverse reaction to anesthesia; coma; death; and any other adverse event as defined by the United States Food and Drug Administration criteria provided in the Medwatch Reporting System.

(2) ‘Primary’ means first in time, order, or stage.

(3) ‘Secondary’ means second in time, order, or stage and produced by a primary cause.

(4) ‘Tertiary’ means third in time, order, or stage.

(B) A hospital, licensed health facility, or individual physician’s office shall file with the department a written report concerning each woman who comes under the care of the hospital, licensed health facility, or individual physician’s office due to a complication, or a woman who requires medical treatment or dies when the attending physician or hospital or facility staff has reason to believe the circumstance is a primary, secondary, or tertiary result of an abortion. The report shall be completed by the hospital, licensed health facility, or individual physician’s office, signed by the attending physician, and transmitted to the department within seven days of the discharge or death of the woman receiving care.

(C) Each report of a complication, medical treatment, or death required pursuant to this section shall contain at least:

(1) the age and race of the woman;

(2) the woman’s state and county of residence;

(3) the date the abortion was performed or induced, as well as the reason for the abortion and the method used, if known;

(4) identification of the physician who performed or induced the abortion, the facility where the abortion was performed or induced, and the referring physician, agency, or service, if known;

(5) the specific complication that led to the treatment; and

(6) the amount billed for treatment of the complication, including whether the treatment was billed to Medicaid, insurance, the individual receiving the treatment, or otherwise.

(D) Reports required pursuant to subsection (B) shall:

(1) not include the name of the woman or any other personally identifiable information; and

(2) be made available to the Board of Medical Examiners for use in the performance of the board’s official duties.

(E)(1) The department shall annually prepare a comprehensive report based upon data compiled from reports submitted pursuant to subsection (B). The department’s report shall not contain any information that can lead to the disclosure of the identity of any physician or person filing a report pursuant to subsection (B) nor of a woman about whom a report is filed pursuant to subsection (B). The aggregated data shall be made available to the public by the department on the department’s website in a downloadable format.

(2) Any information that may reveal the identity of a woman obtaining or seeking an abortion shall not be maintained by the department or any other state department, agency, office, board, commission, or state employee or contractor.

(F) The department shall summarize aggregate data from the reports required pursuant to subsection (B) and submit it to the United States Centers for Disease Control and Prevention for the purpose of inclusion in the annual Vital Statistics Report. The summary submitted pursuant to this subsection shall be made available to the public by the department on the department’s website in a downloadable format.

(G) Reports filed pursuant to subsection (B) are not public records and are not exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act. However, the reports may be disclosed to law enforcement officials pursuant to an order of a court of competent jurisdiction. The court may condition disclosure of the information upon any appropriate safeguards it may impose.

(H) Absent a valid court order or subpoena, neither the department nor any other state department, agency, office, board, commission, or state employee or contractor shall compare data concerning abortions or abortion complications maintained in an electronic or other information system or file with data in any other electronic or other system or file, a comparison of which could result in identifying, in any manner or under any circumstance, a woman obtaining or seeking to obtain an abortion.

(I) The department and its employees or contractors shall not disclose to a person or entity outside of the department the reports or contents of reports filed pursuant to subsection (B) in a manner or fashion to permit the person or entity to whom the disclosure is made to identify, in any manner or under any circumstance, a woman obtaining or seeking to obtain an abortion.”

SECTION 3. Nothing in this act shall be construed as creating or recognizing a right to abortion. It is not the intention of this act to make lawful an abortion that is currently unlawful.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. Reports filed with the department pursuant to this act shall be in a form prescribed by the department.

SECTION 6. This act takes effect July 1, 2017.

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