

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 64

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ABORTION COMPLICATIONS; AMENDING SECTION 39-9503, IDAHO CODE,
TO REVISE A DEFINITION; AMENDING SECTION 39-9504, IDAHO CODE, TO REVISE
PROVISIONS REGARDING CERTAIN REPORTS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-9503, Idaho Code, be, and the same is hereby
amended to read as follows:

39-9503. DEFINITIONS. As used in this chapter:

(1) "Abortion" shall have the same meaning as provided in section
18-502, Idaho Code.

(2) "Complication" means any of the following, if it constitutes an ab-
normal or a deviant process or event arising from the performance or comple-
tion of an abortion, as follows:

(a) Uterine perforation or injury to the uterus;

(b) Injury or damage to any organ ~~inside the body;~~

(c) Cervical perforation or injury to the cervix;

(d) Infection;

(e) Heavy or excessive bleeding;

(f) Hemorrhage;

(g) Blood clots;

(h) Blood transfusion;

(i) Failure to actually terminate the pregnancy;

(j) Incomplete abortion or retained tissue;

~~(k) The need for follow-up care, surgery or an aspiration procedure for
incomplete abortion or retained tissue;~~

~~(l) Weakness, nausea, vomiting or diarrhea that lasts more than twenty-
four (24) hours;~~

~~(m) Pain or cramps that do not improve with medication;~~

~~(n) A fever of one hundred and four-tenths (100.4) degrees or higher
for more than twenty-four (24) hours;~~

~~(o) Hemolytic reaction due to the administration of ABO-incompatible
blood or blood products;~~

~~(p) Hypoglycemia where onset occurs while the patient is being cared
for in the abortion facility;~~

~~(q) Physical injury associated with care received in the abortion fa-
cility;~~

~~(r) Pelvic inflammatory disease;~~

~~(s) Endometritis;~~

~~(t) Missed ectopic pregnancy;~~

~~(u) Cardiac arrest;~~

~~(v) Respiratory arrest;~~

~~(w) Renal failure;~~

- 1 (xv) Metabolic disorder;
 2 (yw) Shock;
 3 (zx) Embolism;
 4 (aay) Coma;
 5 (bbz) Placenta previa or preterm delivery in subsequent pregnancies;
 6 (eaaa) Free fluid in the abdomen;
 7 (dabb) Adverse or allergic reaction to anesthesia or other drugs;
 8 (eecc) Subsequent development of breast cancer;
 9 ~~(ff) Inability, refusal or unwillingness to have follow-up care,~~
 10 ~~surgery or an aspiration procedure following an incomplete abortion or~~
 11 ~~retained tissue;~~
 12 ~~(gg) Inability, refusal or unwillingness to have a follow-up visit;~~
 13 ~~(hh) Referral to or care provided by a hospital, emergency department or~~
 14 ~~urgent care clinic or department;~~
 15 (iidd) Death;
 16 (jjee) Any psychological or emotional condition reported by the pa-
 17 tient, such as depression, suicidal ideation, anxiety or a sleeping
 18 disorder; or
 19 (*kff) Any other adverse event as defined by the federal food and drug
 20 administration criteria provided in the medwatch reporting system.
 21 (3) "Department" means the state department of health and welfare.
 22 (4) "Facility" means any public or private hospital, clinic, center,
 23 medical school, medical training institution, health care facility, physi-
 24 cian's office, infirmary, dispensary, ambulatory surgical center or other
 25 institution or location where medical care is provided to any person.
 26 (5) "Hospital" means any institution licensed as a hospital pursuant to
 27 chapter 13, title 39, Idaho Code.
 28 (6) "Medical practitioner" means a licensed medical care provider ca-
 29 pable of making a diagnosis within the scope of such provider's license.
 30 (7) "Pregnant" or "pregnancy" means the reproductive condition of hav-
 31 ing an unborn child in the uterus.

32 SECTION 2. That Section 39-9504, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 39-9504. ABORTION COMPLICATION REPORTING. (1) Every hospital, li-
 35 censed health care facility or individual medical practitioner shall file
 36 a written report with the department regarding each woman who comes un-
 37 der the hospital's, health care facility's or medical practitioner's care
 38 and ~~reports any complication, requires medical treatment or suffers death~~
 39 ~~receives treatment for any item listed in section 39-9503(2), Idaho Code,~~
 40 ~~that the attending medical practitioner has reason to believe, in the prac-~~
 41 ~~titioner's reasonable medical judgment, is a direct or an indirect result~~
 42 ~~of an abortion constitutes an abnormal or a deviant process or event arising~~
 43 ~~from the performance or completion of an abortion.~~ Such reports shall be
 44 completed by the hospital, health care facility or attending medical practi-
 45 tioner who treated the woman, signed by the attending medical practitioner
 46 and transmitted to the department within ninety (90) days from the last date
 47 of treatment or other care or consultation for the complication.

1 (2) Every hospital, licensed health care facility or individual medi-
2 cal practitioner required to submit a complication report shall attempt to
3 ascertain and shall report on the following:

4 (a) The age and race of the woman;

5 (b) The woman's state and county of residence;

6 (c) The number of previous pregnancies, number of live births and num-
7 ber of previous abortions of the woman;

8 (d) The date the abortion was performed and the date that the abortion
9 was completed, as well as the gestational age of the fetus, as defined in
10 section 18-604, Idaho Code, and the methods used;

11 (e) Identification of the physician who performed the abortion, the fa-
12 cility where the abortion was performed and the referring medical prac-
13 titioner, agency or service, if any; and

14 (f) The specific complication, as that term is defined in section
15 39-9503(2), Idaho Code, including, where applicable, the location of
16 the complication in the woman's body, the date on which the complication
17 occurred and whether there were any preexisting medical conditions that
18 would potentially complicate pregnancy or the abortion;

19 (g) Whether any post-abortion follow-up visit was scheduled or re-
20 quired by the abortion provider and, if so, whether the woman refused or
21 failed to attend such follow-up visit;

22 (h) Whether the woman was referred to a hospital, emergency department,
23 or urgent care clinic or department for treatment for any item listed in
24 section 39-9503(2), Idaho Code;

25 (i) Any follow-up care, surgery, or aspiration procedure performed be-
26 cause of incomplete abortion or retained tissue; and

27 (j) Whether the woman received treatment from any other medical prac-
28 titioner for the specific complication and, if so, when such previous
29 treatment occurred, and the medical practitioner or practitioners who
30 provided the treatment.

31 (3) Reports required under this section shall not contain:

32 (a) The name of the woman;

33 (b) Common identifiers such as the woman's social security number or
34 motor vehicle operator's license number; or

35 (c) Other information or identifiers that would make it possible to
36 identify, in any manner or under any circumstances, a woman who has
37 obtained an abortion and subsequently suffered an abortion-related
38 complication.

39 (4) The department shall prepare a comprehensive annual statistical
40 report for the legislature based on the data gathered from reports under
41 this section. The statistical report shall not lead to the disclosure of the
42 identity of any medical practitioner, or any person filing a report under
43 this section nor of a woman about whom a report is filed. The aggregate data
44 shall also be made independently available to the public by the department
45 in a downloadable format.

46 (5) The department shall summarize aggregate data from the reports re-
47 quired under this chapter and submit the data to the federal centers for dis-
48 ease control and prevention for the purpose of inclusion in the annual vi-
49 tal statistics report. The aggregate data shall also be made independently
50 available to the public by the department in a downloadable format.

1 (6) Reports filed pursuant to this section shall not be deemed public
2 records and shall remain confidential, except that disclosure may be made to
3 law enforcement officials upon an order of a court after application showing
4 good cause. The court may condition disclosure of the information upon any
5 appropriate safeguards it may impose.

6 (7) Absent a valid court order or judicial subpoena, the department,
7 any other state department, agency or office, or any employees or contrac-
8 tor thereof shall not compare data concerning abortions or abortion compli-
9 cations maintained in an electronic or other information system file with
10 data in any other electronic or other information system, a comparison of
11 which could result in identifying, in any manner or under any circumstances,
12 a woman obtaining or seeking to obtain an abortion.

13 (8) Statistical information that may reveal the identity of a woman ob-
14 taining or seeking to obtain an abortion shall not be maintained by the de-
15 partment, any other state department, agency or office, or any employee or
16 contractor thereof.

17 (9) The department or an employee or contractor of the department shall
18 not disclose to a person or entity outside the department the reports or the
19 contents of the reports required under this section in a manner or fashion
20 that would permit the person or entity to whom the report is disclosed to
21 identify, in any way or under any circumstances, the woman who is the subject
22 of the report.

23 (10) Original copies of all reports filed under this section shall be
24 available to the state board of medicine for use in the performance of its of-
25 ficial duties.

26 (11) The department shall communicate this reporting requirement to
27 all medical professional organizations, medical practitioners, hospitals,
28 emergency departments, abortion facilities, clinics, ambulatory surgical
29 facilities, and other health care facilities operating in the state.

30 SECTION 3. An emergency existing therefor, which emergency is hereby
31 declared to exist, this act shall be in full force and effect on and after its
32 passage and approval.