

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0261

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 54** - 02/18/2004

Introduced by: The Committee on Health and Human Services at the request of the
Department of Health

1 FOR AN ACT ENTITLED, An Act to provide for the inclusion of certain information on
2 required abortion reports and to clarify the confidential nature of the information.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-23A-34 be amended to read as follows:

5 34-23A-34. ~~No later than October 1, 1998, the~~ The Department of Health shall prepare a
6 reporting form for physicians which shall provide for the collection of the following
7 information:

- 8 (1) ~~The number of induced abortions performed in the previous calendar year, broken~~
9 ~~down by month, day, and year of the induced abortion;~~
- 10 (2) The method of abortion used for each induced abortion;
- 11 (3) The approximate gestational age, in weeks, of the unborn child involved in the
12 abortion;
- 13 (4) The age of the mother at the time of the abortion and, if the mother was younger than
14 sixteen years of age at the time the child was conceived, the age of the father, if
15 known;



- 1 (5) The specific reason for the induced abortion, including the following:
 - 2 (a) The pregnancy was a result of rape;
 - 3 (b) The pregnancy was a result of incest;
 - 4 (c) The mother could not afford the child;
 - 5 (d) The mother did not desire to have the child;
 - 6 (e) The mother's emotional health was at risk;
 - 7 (f) The mother would suffer substantial and irreversible impairment of a major
 - 8 bodily function if the pregnancy continued;
 - 9 (g) Other, which shall be specified;
- 10 (6) Whether the induced abortion was paid for by:
 - 11 (a) Private insurance;
 - 12 (b) Public health plan;
 - 13 (c) Other, which shall be specified;
- 14 (7) Whether coverage was under:
 - 15 (a) A-fee-for-service insurance company;
 - 16 (b) A managed care company; or
 - 17 (c) Other, which shall be specified;
- 18 (8) A description of the complications, if any, for each abortion and for the aftermath of
- 19 each abortion;
- 20 (9) The fee collected for performing or treating the abortion;
- 21 (10) The type of anesthetic, if any, used for each induced abortion;
- 22 (11) The method used to dispose of fetal tissue and remains;
- 23 (12) ~~Speciality~~ The specialty area of the physician;
- 24 (13) Whether the physician performing the induced abortion has been subject to license

- 1 revocation or suspension or other professional sanction; ~~and~~
- 2 (14) The number of previous abortions the mother has had;
- 3 (15) The number of previous live births of the mother, including both living and deceased;
- 4 (16) The date last normal menses began for the mother;
- 5 (17) The name of physician performing the induced abortion;
- 6 (18) The name of hospital or physician office where the induced abortion was performed;
- 7 (19) A unique patient number that can be used to link the report to medical report for
- 8 inspection, clarification, and correction purposes but that cannot, of itself, reasonably
- 9 lead to the identification of any person obtaining an abortion; and
- 10 (20) Certain demographic information including:
- 11 (a) State, county, and city of occurrence of abortion;
- 12 (b) State, county, and city of residence of mother;
- 13 (c) Marital status of mother;
- 14 (d) Education status of mother;
- 15 (e) Race and hispanic origin of mother; and
- 16 (21) Certain Rhesus factor (Rh) information including:
- 17 (a) Whether the mother received the Rh test;
- 18 (b) Whether the mother tested positive for the Rh-negative factor;
- 19 (c) Whether the mother received a Rho(D) immune globulin injection.

20 Section 2. That § 34-23A-35 be amended to read as follows:

21 34-23A-35. ~~Any physician performing or treating abortions shall obtain a reporting form~~

22 ~~from the department and shall complete and submit the reporting form to the department no later~~

23 ~~than January fifteenth for any abortion performed or treated during the previous calendar year.~~

24 By January fifteenth of each year, each physician who performed or treated an induced abortion

1 during the previous calendar year or the physician's agent, shall submit to the department a copy
2 of the physicians' information report described in § 34-23A-34 with the requested data entered
3 accurately and completely.

4 Section 3. That § 34-23A-37 be amended to read as follows:

5 34-23A-37. ~~No later than October 1, 1998, the~~ The Department of Health shall prepare a
6 reporting form for physicians which shall provide for the collection of the following
7 information:

8 (1) The number of females to whom the physician provided the information described
9 in subdivision 34-23A-10.1(1); of that number, the number provided by telephone
10 and the number provided in person; and of each of those numbers, the number
11 provided in the capacity of a referring physician and the number provided in the
12 capacity of a physician who is to perform the abortion;

13 (2) The number of females to whom the physician provided the information described
14 in subdivision 34-23A-10.1(2); of that number, the number provided by telephone
15 and the number provided in person; of each of those numbers, the number provided
16 in the capacity of a referring physician and the number provided in the capacity of a
17 physician who is to perform the abortion; and of each of those numbers, the number
18 provided by the physician and the number provided by an agent of the physician;

19 (3) The number of females who availed themselves of the opportunity to obtain a copy
20 of the printed information described in § 34-23A-10.3, and the number who did not;
21 and of each of those numbers, the number who, to the best of the reporting
22 physician's information and belief, went on to obtain the abortion; and

23 (4) The number of abortions performed by the physician in which information otherwise
24 required to be provided at least twenty-four hours before the abortion was not

1 provided because an immediate abortion was necessary to avert the female's death,
2 and the number of abortions in which such information was not so provided because
3 a delay would create serious risk of substantial and irreversible impairment of a
4 major bodily function;

5 (5) The name of hospital or physician office;

6 (6) The date of report by month, day, and year; and

7 (7) A unique patient number that can be used to link the report to medical report for
8 inspection, clarification, and correction purposes but that cannot, of itself, reasonably
9 lead to the identification of any person obtaining an abortion.

10 Section 4. That § 34-23A-39 be amended to read as follows:

11 34-23A-39. ~~No later than October 1, 1998, the~~ The Department of Health shall prepare a
12 reporting form for physicians which shall provide for the collection of the following
13 information:

14 (1) The number of females or parents whom the physician or agent of the physician
15 provided the notice described in § 34-23A-7; and of each of those numbers, the
16 number of females who, to the best of the reporting physician's information and
17 belief, went on to obtain the abortion;

18 (2) The number of females upon whom the physician performed an abortion without
19 providing to the parent of the minor the notice described in § 34-23A-7; of that
20 number, the number who were emancipated minors, and the numbers from whom
21 each of the exceptions to § 34-23A-7 were applicable;

22 (3) The number of abortions performed upon a female by the physician after receiving
23 judicial authorization to do so without parental notice; ~~and~~

24 (4) The same information described in subdivisions (1) through (3) of this section with

1 respect to females for whom a guardian or conservator has been appointed pursuant
2 to statutes on guardianship or conservatorship because of finding of incompetency;

3 (5) The name of hospital or physician office;

4 (6) The date of report by month, day, and year; and

5 (7) A unique patient number that can be used to link the report to medical report for
6 inspection, clarification, and correction purposes but that cannot, of itself, reasonably
7 lead to the identification of any person obtaining an abortion.

8 Section 5. That § 34-23A-44 be amended to read as follows:

9 34-23A-44. No report made under §§ 34-23A-34 to 34-23A-45, inclusive, may include the
10 name of any female having an abortion. The Department of Health shall take care to ensure that
11 none of the information included in any report required by §§ 34-23A-34 to 34-23A-45,
12 inclusive, including printed records, computerized records, or stored information of any type,
13 can reasonably lead to the identification of any person obtaining an abortion. Any information
14 collected by or under the direction of a physician or psychotherapist for the purpose of
15 completing a report required by §§ 34-23A-34 to 34-23A-45, inclusive, is privileged as a
16 confidential communication under § 19-13-7.