

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 328

BY SENATOR KARNES

[Introduced February 18, 2021; referred
to the Committee on Health and Human Resources;
and then to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §9-5-12b, relating to collecting and analyzing statistical information pertaining
3 to termination of pregnancies under the West Virginia Medicaid Program; declaring
4 legislative objectives; requiring the submission of reporting forms by providers; providing
5 for patient confidentiality; specifying required information; providing for the collection and
6 aggregation of data; permitting access to de-identified data; and requiring the creation of
7 analytical reports.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-12b. Medicaid program; collection of statistical information on termination of pregnancy; analysis and reporting.

1 (a) The Legislature finds that there have been significant increases in the number of
2 terminations of pregnancy provided through the West Virginia Medicaid Program in the past 10
3 years with a dramatic increase in the preceding three years. Without additional information
4 regarding the medical, physical, mental, social, familial, and economic factors affecting these
5 changing numbers, the state is unable to fashion appropriate programs to address any causes if
6 detrimental to public health. Therefore, it is necessary to collect detailed data, without reference
7 to patient identities, for aggregation, analysis, and planning.

8 (b) Every health care provider seeking reimbursement from the West Virginia Medicaid
9 Program for services provided to terminate a pregnancy by any means without the live birth of the
10 child shall also submit a written report, as specified in this section, of the physician or other
11 licensed health care professional administering the services to terminate the pregnancy. To
12 prevent the linking of invoice information with the physician's report, the secretary shall designate
13 a separate office to receive the report for entry into a statistical analysis system. The invoice or
14 request for reimbursement shall contain a certification from the health care provider that the
15 required report has been filed with the data collection office designated by the secretary.

16 (c) The department may specify the form for reporting the statistical information in either
 17 written or electronic format or both, or the department may accept forms created by a health care
 18 provider, but in all instances the report form shall request, at a minimum, the following information
 19 in a substantially similar manner as shown here:

20
 21 “Patient age: _____ County of residence: _____ No. of children in residence: _____

22 County where service was provided: _____

23 ICD 10 Code for Pregnancy Termination: _____

24

25 **Certification of General Medical Necessity (must be certified for all procedures)**

26 I, the undersigned attending physician, having discussed this matter with the patient prior
 27 to the service, certify that on the basis of my professional judgment, this pregnancy termination
 28 was necessary in light of the following factors relevant to the well-being of the patient.

29 (Complete all that apply.)

30 Physical condition (specify): _____

31 Mental condition or status (specify): _____

32 Emotional condition (specify): _____

33 Psychological condition (specify): _____

34 Substance abuse or dependence (specify substances): _____

35 Other medical consideration (specify): _____

36 Familial situation (specify): _____

37 Age consideration (specify): _____

38

39 **Certification of Specific Necessity (only if applicable)**

40 I, the undersigned attending physician, certify that on the basis of my professional
 41 judgment, this pregnancy termination was medically necessary due to the following factor or

42 factors (Complete all that apply):

43 Pregnancy resulting from rape. The rape has has not been reported to law enforcement.

44 Pregnancy resulting from incest. The incest has has not been reported to law enforcement.

45 Endangerment of mother’s life if the fetus were carried to full term. Specify condition or medical
46 diagnosis (including diagnosis codes): _____.

47 Due to miscarriage of fetus in course of pregnancy.

48

49 Signature of Attending Physician

50 (May be written or electronic.)”

51

52 (d) The reporting form shall not contain any personally identifying information of the patient
53 for whom the services are provided, but the department or health care provider may use a unique
54 control number on the form to track compliance with this section and to prevent the entry of
55 duplicate information.

56 (e) The department shall collect the information from all forms submitted pursuant to this
57 section and prepare reports to be submitted quarterly to the Governor and the Joint Committee
58 on Government and Finance with a summary of the prevalence of the individual health and social
59 factors resulting in terminations of pregnancies, a statistical analysis of trends in those factors,
60 and any recommendations for addressing adverse or detrimental circumstances revealed through
61 the analysis.

62 (f) The department shall make the de-identified information available upon request for the
63 purposes of review, research, and analysis and the department may, subject to the availability of
64 funds and other resources, conduct additional research using the collected data for the purposes
65 of health care planning, community response, and mitigation of adverse circumstances or health
66 factors.

NOTE: The purpose of this bill is to require the collection and analysis of data relating to

the delivery of pregnancy termination services through the West Virginia Medicaid Program. This bill would require health care providers seeking reimbursement for pregnancy termination services to submit reports for each instance of service identifying the health, social, and economic factors contributing to the decision to terminate a pregnancy. The Department of Health and Human Resources would be required to analyze the data and make regular reports to the Governor and the Legislature.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added. This entire section is new; however, for clarity the underscoring has been omitted from the form displayed in subsection (c).