RESOURCE

if when how

Lawyering for Reproductive Justice

WHAT YOU NEED TO KNOW FOR PROVIDERS

Mandatory Reporting Requirements, Law Enforcement, and Patient Confidentiality in Mississippi

Note: This resource is up to date as of April 2025.

Why use this fact sheet?

Confidentiality is central to the provider-patient relationship and a core part of medical ethics. In addition, providers know that in some cases, violating patient confidentiality unnecessarily may carry professional or legal penalties. This brief fact sheet is meant to give an overview of some of the major mandatory reporting requirements and where they may intersect with patient privacy - with a specific focus on self-managed abortion. This fact sheet does not contain legal advice, and we recommend that providers who have further questions about their reporting requirements consult an in-state attorney for more information.

Who wrote this guide and why?

If/When/How: Lawyering for Reproductive Justice is a legal advocacy organization. We created this fact sheet in part because the most common cause of the criminalization of people who self-manage their own abortion care is unnecessary reports to law enforcement by medical providers. In addition, we frequently field questions from providers who are concerned about what they may need to report. We know providers share our concern that risk to patients can be high when a report to law enforcement is triggered. In the case of reporting self-managed abortion, the consequences to patients might include jail time, losing custody of their children, a criminal record, or fines – all of which are unjust responses by an overzealous, racially biased system and frequently violate people's rights. Failure to report when it is necessary also carries risk of liability, so we want providers to feel confident in their ability to discern when reporting is legally required, and what must be included.

Providers can also help protect their patients from unjust criminalization.

Know your mandatory reporting obligations, and where they intersect with patient privacy.

This fact sheet covers most mandatory reporting requirements in Mississippi law. Your hospital, clinic, or practice may have additional reporting requirements that you should be familiar with. Providers can help patients maintain their agency and confidentiality while fulfilling their mandatory reporting obligations by:

- Not reporting patients if not legally required,
- Not asking patients for information that is not necessary to patient care,
- Informing patients of what the provider may have to report prior to treating the patient, and
- Carefully considering what information is necessary to document in a medical chart.

Providers can also help protect their patients from unjust criminalization by ensuring that their hospital or clinic reporting policies do not conflict with state laws on medical privacy.

Major Mandatory Reporting Requirements in Mississippi[1]

Crime: Self-managed abortion is not a crime for abortion seekers.

Mississippi health care providers are not required to report crimes other than child and vulnerable adult abuse or neglect, sex crimes, and certain results of crimes, such as serious injuries as described elsewhere in this fact sheet.

Child and vulnerable adult abuse: A minor or vulnerable adult self-managing an abortion is not ordinarily reportable as abuse.

Legal requirements for child abuse reporting are fraught with bias, in particular toward families of color and families struggling to make ends meet. However, all health care providers in Mississippi who provide care to a child under 18 are mandatory reporters for suspected child abuse and neglect.[2] Because suspicion is subjective and can often stem from bias, health care providers should thoroughly examine any potential bias at play in their suspicion when deciding whether a report is required under the law. Though sexual abuse, statutory rape, sexual exploitation, and human trafficking are reportable regardless of what adult is responsible,[3] child abuse and neglect are only reportable[4] when it involves a "parent, guardian or custodian, or any person responsible for [the child's] care or support[.]"[5] A fetus is not a "child" as defined under Mississippi law.[6]

Have more questions? Reach out to request technical assistance.

Under Mississippi law, pregnancy is not a trigger for abuse reporting unless it involves a young person under 16 and they refuse to identify the other biological parent, they identify the other biological parent as being unknown, deceased, or 21 years old or older, or the identified biological parent disputes their parenthood.[7] If a provider makes an abuse report, the fact that a minor or vulnerable adult self-managed their own abortion would not ordinarily need to be included in the report.[8] Providers are not required to report domestic violence or sexual assault in Mississippi unless the victim is a minor or vulnerable adult. Health care providers are also mandatory reporters for suspected vulnerable adult abuse and neglect.[9]

Statutory rape: If a provider needs to report a statutory rape, the fact that the patient attempted to end the pregnancy is not relevant to the investigation.

Mississippi requires all health care providers to report statutory rape as a sex crime.[10] Statutory rape includes sex between anyone 17 or older and a young person aged 14 or 15, provided there is at least a 3-year age difference, or sex between someone younger than 14 and a person at least two years older.[11] In general, unless providers know the age of the patient's partner, they lack the information required to make a report. The age of a young person's sexual partner is rarely clinically significant to care provision, and health care providers should inform adolescent patients about what constitutes reportable sexual conduct prior to talking to them about care where possible.

Certain traumas and injuries: Self-managed abortion is not a reportable injury.

Mississippi health care providers must report gunshot wounds, knife wounds, and injuries caused by hunting or boating accidents to law enforcement.[12] While health care providers may need to report certain injuries or circumstances if someone presents with complications from a self-managed abortion, the provider does not need to report the intent behind the injury.

Overdoses and drug use during pregnancy: If a provider knows that someone is overdosing in order to cause a miscarriage, that patient's intention behind the overdose is not required information to include in a report.

Health care providers in Mississippi are not required to report overdoses unless they result in a death, including a fetal death.[13] Additionally, there is no requirement that providers report the use of criminalized drugs during pregnancy.[14] However, providers must report a stillbirth that is medically believed to have resulted from the use of controlled substances.[15]

Self-harm:

In Mississippi, providers are not required to report patients at imminent risk of self-harm.

Abortion:[16] It is never necessary to report a patient's intention to self-manage an abortion.

Mississippi requires abortion reporting for vital statistics purposes, including specific requirements around reporting abortion complications[17] and serious adverse events.[18] Generally, physicians are only required to report abortions that they themselves perform,[19] though all physicians must report abortion complications they treat.[20] Additionally, physicians who provide an abortion-inducing drug must report the provision of the drug as well as any serious adverse events that occur during or after the administration of the abortion-inducing drug.[21] The intention to self-manage is not information a physician is required to provide under state law.

Fetal death: Under the current definition of "fetal death," providers are not clearly required to report any induced termination of pregnancy, including self-managed abortion.

In Mississippi, health care providers are only required to report certain spontaneous fetal deaths, which does not include self-managed abortions or any other abortion.[22] More specifically, if a stillborn fetus is delivered outside an institution, providers who attend a spontaneous fetal death must prepare a fetal death certificate when a fetus weighs 350 grams or more or is 20 weeks gestational duration or more.[23] Typically, a provider's institution will file the certificate.[24] However, if a fetal death occurs without medical attendance, the fetal death certificate must be filed by the coroner or medical examiner if an investigation is required, or else by the first applicable person in the following list: (1) the physician in attendance immediately after delivery, (2) any other person in attendance immediately after delivery, (3) the father or mother, or (4) the person in charge of the premises where the delivery occurred.[25]

HIPAA:

HIPAA generally prevents health care providers and entities from disclosing patient information without patient consent, and the state reporting laws discussed in this fact sheet are exceptions to that rule.[26] This means that when a provider is legally required to make a report, HIPAA allows them to share patient information that is specifically required or permitted by the applicable state reporting law. Providing any additional patient information beyond what is specifically required or permitted by state law would likely violate HIPAA.

Accordingly, providers should carefully consider what patient information is necessary for making a report. For example, if a provider treats a minor patient for an injury that gives them cause to suspect physical abuse, the provider could share the records that are relevant to the suspected abuse, but they likely could not share the patient's *entire* medical record without violating HIPAA.

Providers with questions about medical privacy laws in relation to reproductive health care can request technical assistance from If/When/How: https://ifwhenhow.org/learn/technical-assistance/.

Citations

1.This fact sheet focuses on mandatory reporting requirements that involve law enforcement or an analogous health authority. It does not include mandatory reporting requirements concerning communicable diseases, childhood blood lead levels, etc. It also does not include reporting requirements specific to long-term care facilities. The fact sheet intends to cover reporting requirements for physicians, nurses, physician assistants, midwives, social workers, mental health professionals, and emergency medical technicians. If you know of a mandatory reporting requirement for these professionals in Mississippi involving or potentially involving law enforcement that is not covered on this sheet, please contact info@ifwhenhow.org.
2. Abuse and neglect includes sexual abuse, statutory rape, commercial sexual exploitation, and human trafficking. Miss. Code Ann. § 43-21-353.
3. Miss. Code Ann. § 97-5-51.

Citations

4. Additionally, any Mississippi health care provider with knowledge or information concerning a child fatality or near fatality must report it. These situations include (a) the suspected cause of a child's sudden or unexpected death is abuse or neglect; (b) there is a medical diagnosis of "sudden unexplained infant death" (SUID); (c) the child's cause of death is unexplained; (d) the child is a "victim of suspected sexual abuse or sexual exploitation, and physical injury has resulted that has been medically diagnosed as 'serious' or 'critical'"; and (e) "[s]evere abuse or neglect is suspected, or an unexplained cause resulted in severe physical injury or trauma to a child that resulted in a medical diagnosis that the child's condition was 'serious' or 'critical,' or which required hospitalization in an intensive care unit of a hospital." Miss. Code Ann. § 41-111-3.
5. Miss. Code Ann. § 43-21-105(m).
6. *See* Miss. Code Ann. § 41-111-3(d).
7. Miss. Code Ann. § 97-5-51.
8. Note that reproductive coercion toward children and vulnerable adults is inherently abusive behavior. The Am. Coll. of Obstetricians and Gynecologists defines reproductive coercion as "behavior intended to maintain power and control in a relationship related to reproductive health by someone who is, was, or wishes to be involved in an intimate or dating relationship with an adult or adolescent." ACOG, *Reproductive and Sexual Coercion*, 2013, https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2013/02/reproductive-and-sexual-coercion.
9. Miss. Code Ann. § 43-47-7.
10. Miss. Code Ann. § 97-5-51.
11. Miss. Code Ann. § 97-3-65.
12. Miss. Code Ann. § 45-9-31.
13. Miss. Code Ann. § 41-61-59.
14. We note that poisoning a child is felony child abuse, *see* Miss. Code Ann. § 97-5-39(2)(a)(iv), and women have been prosecuted and imprisoned for using drugs while pregnant under the theory that such action constitutes poisoning a child. *See* Michelle Liu and Erica Hensley, *Delivering Justice: Why a Mississippi county is prosecuting some pregnant women and new moms*, Mississippi Today (May 11, 2019), https://mississippitoday.org/2019/05/11/delivering-justice/ (citing Miss. Code Ann. § 97-5-39). We are not aware of any such cases reaching trial, nor are we aware of any other judicial interpretation in Mississippi where the definition of child for purposes of child abuse protections has been held to include fetuses.
15. Miss. Code Ann. § 41-61-59(2)(n).

Citations

16. "'Abortion' means the use or prescription of any instrument, medicine, drug or any other substance or device to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth or to remove a dead fetus." Miss. Code Ann. § 41-41-45.
17. Miss. Code Ann. § 41-41-77.
18. Miss. Code Ann. § 41-41-109.
19. Miss. Code Ann. § 41-41-407.
20. Miss. Code Ann. § 41-41-77.
21. Miss. Code Ann. § 41-41-109.
22. *See* 15 Miss. Admin. Code Pt. 5, Subpt. 85, R. 5.1.1 (defining "[s]pontaneous fetal deaths" as "stillbirths and miscarriages"); *see also* Miss. Code Ann. § 41-57-31 (defining "stillbirth" as "an unintended, intrauterine fetal death occurring in this state after a gestational age of not less than twenty (20) completed weeks"). Note that miscarriage is not defined in the Code, but reporting is only required if the fetus is over 20 weeks or 350 grams which would exclude almost all miscarriages that aren't also stillbirths.
23. 15 Miss. Admin. Code Pt. 5, Subpt. 85, R. 5.2.2.
24. *Id*.
25. 15 Miss. Admin. Code Pt. 5, Subpt. 85 R. 5.2.5-6.
26. *See, e.g.*, Dep't of Health & Hum. Servs., *My state law authorizes health care providers to report suspected child abuse to the state department of health and social services. Does the HIPAA Privacy Rule preempt this state law?* (last reviewed Dec. 28, 2022), https://www.hhs.gov/hipaa/for-professionals/faq/406/does-hipaa-preempt-this-state-law/index.html. "[I]f a provision of State law provided for [reporting of disease or injury, child abuse, birth, or death, or for public health surveillance, investigation, or intervention] and was contrary to the [HIPAA] Privacy Rule, the State law would prevail." *Id*. In other words, HIPAA protects all patient information from disclosure, except for what a state reporting law either requires or permits.