



## PHYSICIAN'S INDUCED ABORTION REPORTING FORM PARENTAL NOTICE

South Dakota Codified Law §§ 34-23A-39 and 34-23A-7  
(also 45 C.F.R. §§ 164.512(b)(1)(i) and 164.514(e)(3)(i))

### SDCL 34-23A-43 VERIFICATION PURPOSES

<b>Name of Hospital, Clinic, or Physician's Office:</b>
<b>Date of Report (Month/Day/Year):</b>
<b>Patient ID Number:</b>
<b>The patient is (check one box): SDCL 34-23A-7</b> <input type="checkbox"/> Emancipated minor (if checked, please skip to letter C) <input type="checkbox"/> Unemancipated minor, with parental notice required <input type="checkbox"/> Unemancipated minor, with guardian notice required due to court-ordered guardianship or conservatorship <input type="checkbox"/> Incompetent minor or adult, with guardian notice required due to court-ordered guardianship or conservatorship
<b>Complete questions A or B and question C.</b>
A. <b>Notice was provided</b> , per SDCL §§ 34-23A-39(1) and 34-23A-7, to patient's: <input type="checkbox"/> Parent or <input type="checkbox"/> Guardian/Conservator (if checked, please skip to letter C). OR
B. <b>Notice was not provided</b> , per SDCL 34-23A-7, to patient's: <input type="checkbox"/> Parent or <input type="checkbox"/> Guardian/Conservator <b>because one of the following three notice exceptions applies</b> (check applicable exception):
1. <input type="checkbox"/> A <b>medical emergency</b> existed with insufficient time to provide the required notice. SDCL 34-23A-7(1). <input type="checkbox"/> Verbal notice was provided to parent/guardian within 24 hours after the abortion. SDCL §§ 34-23A-39(2), 34-23A-39(4), and 34-23A-7(1). <input type="checkbox"/> Mandatory written notice was provided to parent/guardian after the abortion. SDCL §§ 34-23A-39(2), 34-23A-39(4), 34-23A-7(1). OR <input type="checkbox"/> Judge of circuit court authorizes waiver of required notice, per SDCL §§ 34-23A-39(2), 34-23A-39(3), 34-23A-39(4), and 34-23A-7(1), because: <input type="checkbox"/> Judge determined patient is mature and capable of giving informed consent. SDCL §§ 34-23A-39(2), 34-23A-39(3), 34-23A-39(4), and 34-23A-7(1). OR <input type="checkbox"/> Judge determined patient is not mature, or patient does not claim



to be mature, and Judge determines performance of abortion without notification of parent would be in patient's best interests. SDCL §§ 34-23A-39(2), 34-23A-39(3), 34-23A-39(4), and 34-23A-7(1).

2.  **The parent or guardian entitled to notice certifies in writing that s/he was notified**, with the parent or guardian's signature notarized. SDCL §§ 34-23A-39(1) and 34-23A-7(2).
3. Any **judge of a circuit court** , after an appropriate hearing, **authorizes a physician to perform the induced abortion without prior notice**. SDCL §§ 34-23A-39(3) and 34-23A-7(3).

C. Patient obtained induced abortion:  Yes  No  Unknown

SDCL §§ 34-23A-39(1), 34-23A-39(2), 34-23A-39(3), and 34-23A-39(4).

#### 25-5-24. EMANCIPATED MINOR DEFINED

Any person under the age of eighteen years who:

1. Has entered into a valid marriage, whether or not such marriage was terminated by dissolution; or
2. Is on active duty with any of the armed forces of the United States of America; or
3. Has received a declaration of emancipation pursuant to § 25-5-26; is an emancipated minor.

#### 34-23A-7. FORTY-EIGHT HOUR NOTICE TO PARENT OR GUARDIAN FOR MINOR OR INCOMPETENT FEMALE-- DELIVERY OF NOTICE--EXCEPTIONS.

No abortion may be performed upon an unemancipated minor or upon a female for whom a guardian has been appointed because of a finding of incompetency, until at least forty-eight hours after written notice of the pending operation has been delivered in the manner specified in this section. The notice shall be addressed to the parent at the usual place of abode of the parent and delivered personally to the parent by the physician or an agent. In lieu of such delivery, notice may be made by certified mail addressed to the parent at the usual place of abode of the parent with return receipt requested and restricted delivery to the addressee, which means a postal employee can only deliver the mail to the authorized addressee. If notice is made by certified mail, the time of delivery shall be deemed to occur at twelve noon on the next day on which regular mail delivery takes place, subsequent to mailing.

No notice is required under this section if:

1. The attending physician certifies in the pregnant unemancipated minor's medical record that, on the basis of the physician's good faith clinical judgment, a medical emergency exists and there is insufficient time to provide the required notice. Unless the unemancipated minor gives notice of her intent to seek a judicial waiver, a good faith effort shall be made by the attending physician or the physician's agent to verbally inform the parent within twenty-four hours after the performance of the emergency



abortion, that an emergency abortion was performed on the unemancipated minor and shall also be sent a written notice, in the manner described in this section, of the performed emergency abortion. If the unemancipated minor, upon whom an emergency abortion was performed, elects not to allow the notification of her parent, any judge of a circuit court shall, upon petition, or motion, and after an appropriate hearing, authorize the waiving of the required notice of the performed abortion if the judge determines, by clear and convincing evidence that the unemancipated minor is mature and capable of determining whether notification should be given, or that the waiver would be in the unemancipated minor's best interest; or

2. The person who is entitled to notice certifies in writing that the person has been notified. The certification is valid only if the signature has been notarized. If the person does not provide a notarized signature, the person shall be sent a written notice as described in this section. No abortion as described in this section may be performed until at least forty- eight hours after written notice of the pending operation has been delivered in the manner specified in this section; or
3. A pregnant female elects not to allow the notification of her parent, in which case, any judge of a circuit court shall, upon petition, or motion, and after an appropriate hearing, authorize a physician to perform the abortion if the judge determines, by clear and convincing evidence, that the pregnant female is mature and capable of giving informed consent to the proposed abortion. If the judge determines that the pregnant female is not mature, or if she does not claim to be mature, the judge shall determine, by clear and convincing evidence, whether the performance of an abortion upon her without notification of her parent would be in her best interests and shall authorize a physician to perform the abortion without such notification if the judge concludes that her best interests would be served thereby.

#### **34-23A-39. REPORTING FORM FOR USE OF NOTICE DESCRIBED IN § 34-23A-7.**

The Department of Health shall prepare a reporting form for physicians which shall provide for the collection of the following information:

1. The number of females or parents whom the physician or agent of the physician provided the notice described in § 34-23A-7; and of each of those numbers, the number of females who, to the best of the reporting physician's information and belief, went on to obtain the abortion;
2. The number of females upon whom the physician performed an abortion without providing to the parent of the minor the notice described in § 34-23A-7; of that number, the number who were emancipated minors, and the numbers from whom each of the exceptions to § 34-23A-7 were applicable;
3. The number of abortions performed upon a female by the physician after receiving judicial authorization to do so without parental notice;
4. The same information described in subdivisions (1) through (3) of this section with respect to females for whom a guardian or conservator has been appointed pursuant to statutes on guardianship or conservatorship because of finding of incompetency;
5. The name of hospital or physician office;
6. The date of report by month, day, and year; and



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

Return completed  
report to:  
South Dakota  
Department of Health  
615 East 4th Street  
Pierre, South Dakota 57501-2536