
DIGEST

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HB 484 Original

2019 Regular Session

Crews

Abstract: Establishes requirements for physicians and medical directors, administrators, and owners of abortion facilities relative to medical records of women upon whom abortions are performed.

Proposed law provides the following legislative findings:

- (1) Current law is inadequate to deter and punish the illegal destruction of patient medical records by abortion clinics.
- (2) Abortion facilities have among their clients women who have been victims of sexual assault, domestic violence, and human trafficking.
- (3) Like other medical professionals, abortion providers are required by law to report child abuse and neglect.
- (4) Medical records of La. abortion facility patients have been destroyed in violation of current record retention requirements. These acts of destruction have obstructed investigation of sexual assaults involving minors and allegations of illegally performed abortions, and have permanently hindered the rights of victims to pursue or obtain justice.

Proposed law provides that in addition to any other duty that may be imposed by state law or regulations, each physician who performs or induces an abortion, the medical director of the facility where an abortion is performed or induced, the administrator of an abortion facility, and each owner of an abortion facility shall have an independent duty to ensure that a designated custodian of records for the facility obtains, retains, and makes part of the medical record of each pregnant woman upon whom an abortion is performed or induced at least one copy of the abortion-related records enumerated in present law, R.S. 40:1061.19(A).

Present law requires physicians to retain the abortion-related records enumerated in present law, R.S. 40:1061.19(A), for not less than seven years. Proposed law revises present law to provide that physicians and abortion facilities shall each have an independent duty to ensure that the custodian of records for the abortion facility where the abortion was performed or induced retains those records for not less than seven years and ten years from the age of majority for minors. Stipulates that the ten-year period for minors shall begin to run when the patient attains the age of 18; provided, however, that when the patient has reported facts that would require reporting of child abuse under present law, the retention period shall be 30 years.

Proposed law provides that any person required by proposed law to retain the abortion-related documents enumerated in present law who, either intentionally or with criminal negligence, fails to obtain any such document, fails to retain any such document for the period required in proposed law, or fails to make such documents part of the medical record of each pregnant woman upon whom an abortion is performed or induced, may be fined not more than \$1,000 per document, imprisoned for not more than two years with or without hard labor, or both.

Proposed law provides that the abortion facility shall also be responsible independently for obtaining and retaining the abortion-related documents enumerated in present law for the time period provided in proposed law. Provides that the abortion facility shall be subject to a civil penalty of not more than \$1,000 for each record that was not obtained or retained in compliance with proposed law.

Proposed law provides that in addition to the remedies provided therein and any others available under present law, a person required by proposed law to retain the abortion-related documents enumerated in present law who, either intentionally or with negligence, fails to obtain or retain any document in compliance with proposed law may be temporarily or permanently disqualified from performing or inducing an abortion, applying for a medical facility license, or otherwise operating or managing a medical facility in La.

Proposed law provides that in addition to the remedies provided therein and any others available under present law, failing to obtain or retain any document in compliance with proposed law, either intentionally or with negligence, shall provide a basis for professional disciplinary action against any licensed healthcare provider.

Proposed law requires each abortion facility, as a condition of obtaining and maintaining a state license, to establish a written record retention and archiving policy.

Proposed law stipulates that the obligation of the person required by proposed law to retain the abortion-related documents enumerated in present law shall survive the voluntary or involuntary termination of an abortion facility's license for the period provided in proposed law.

Proposed law provides that in addition to the district attorney, the attorney general shall have the authority to investigate and prosecute criminal violations of proposed law.

(Amends R.S. 40:1061.19)