

BILL ANALYSIS

Senate Research Center

S.B. 85
By: Campbell
Health & Human Services
7/20/2017
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that certain abortion complication reporting requirements in state regulations do not statutorily apply to hospitals or emergency rooms and contend that this loophole hinders accurate abortion complication data collection. S.B. 85 improves the collection of abortion complication data by requiring each health care facility that provides emergency medical care to submit an abortion complication report containing specified information to the Health and Human Services Commission (HHSC). Additionally, S.B. 85 directs HHSC to notify the Texas Medical Board of physician violations within seven days.

As proposed, S.B. 85 amends current law relating to reporting requirements by certain physicians and health care facilities for abortion complications and authorizes a civil penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 171.006, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 171, Health and Safety Code, by adding Section 171.006, as follows:

Sec. 171.006. ABORTION COMPLICATION REPORTING REQUIREMENTS; CIVIL PENALTY. (a) Defines "abortion complication."

(b) Provides that the reporting requirements of this section apply only to:

(1) a physician who meets certain criteria; or

(2) a health care facility that is a hospital, abortion facility, freestanding emergency medical care facility, or health care facility that provides emergency medical care, as defined by Section 773.003 (Definitions).

(c) Requires a physician described by Subsection (b)(1) to submit to the Health and Human Services Commission (HHSC) in the form and manner prescribed by HHSC rule a report on each abortion complication diagnosed or treated by that physician or at the abortion facility not later than 72 hours after the complication is diagnosed or treated. Requires each health care facility described by Subsection (b)(2) to electronically submit to HHSC in the form and manner prescribed by HHSC rule a report on each abortion complication diagnosed or treated at the facility not later than the 30th day after the date on which the complication is diagnosed or treatment is provided for the complication.

(d) Requires HHSC to develop a form for reporting an abortion complication under Subsection (c) and publish the form on HHSC's Internet website. Authorizes the executive commissioner of HHSC (executive commissioner) by rule to adopt procedures to reduce duplication in reporting under this section.

(e) Prohibits a report under this section from identifying by any means the physician performing an abortion, other than a physician described by Subsection (b)(1), or the patient on whom the abortion was performed.

(f) Requires that a report under this section identify the name of the physician submitting the report or the name and type of health care facility submitting the report and include, if known, for each abortion complication, certain information.

(g) Provides that, except as provided by Section 245.023 (Public Information; Toll-Free Telephone Number), all information and records held by HHSC under this section are confidential and are not open records for the purposes of Chapter 552 (Public Information), Government Code. Prohibits that information from being released or made public on subpoena or otherwise, except that release is authorized to be made:

(1) for statistical purposes, but only if a person, patient, or health care facility is not identified;

(2) with the consent of each person, patient, and facility identified in the information released;

(3) to medical personnel, appropriate state agencies, or county and district courts to enforce this chapter; or

(4) to appropriate state licensing boards to enforce state licensing laws.

(h) Requires that a report submitted under this section include the most specific, accurate, and complete reporting for the highest level of specificity.

(i) Requires HHSC to develop and publish on HHSC's Internet website an annual report that aggregates on a statewide basis each abortion complication required to be reported under Subsection (f) for the previous calendar year.

(j) Provides that a physician described by Subsection (b)(1) or health care facility that violates this section is subject to a civil penalty of \$500 for each violation. Authorizes the Texas attorney general, at the request of HHSC or the appropriate licensing agency, to file an action to recover a civil penalty assessed under this subsection and to recover attorney's fees and costs incurred in bringing the action. Provides that each day of a continuing violation constitutes a separate ground for recovery.

(k) Provides that the third separate violation of this section constitutes cause for the revocation or suspension of a physician's or health care facility's license, permit, registration, certificate, or other authority or for other disciplinary action against the physician or facility by the appropriate licensing agency.

(l) Requires HHSC, not later than the seventh day after the date HHSC discovers a violation of this section by a physician, to notify the Texas Medical Board of the violation.

SECTION 2. Provides that not later January 1, 2018:

(1) HHSC is required to develop the forms required by Section 171.006, Health and Safety Code, as added by this Act; and

(2) the executive commissioner is required to adopt the rules necessary to implement Section 171.006, Health and Safety Code, as added by this Act.

SECTION 3. Requires HHSC to establish an electronic reporting system for purposes of Section 171.006, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 4. Effective date: upon passage or on the 91st day after the last day of the legislative session.