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Subject: Licensure of certain facilities that perform abortions

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Overview

This bill creates licensing requirements for certain facilities that perform ten or more abortions per month. The bill requires those facilities to meet the licensure requirements of outpatient surgical centers (Minnesota Rules, chapter 4675). The bill also requires the commissioner of health to perform inspections and allows the commissioner to inspect without notice. The bill provides proceedings for license suspension, revocation, and refusal to renew, and appropriates money to the commissioner from the state government special revenue fund for licensing activities.

In 2016, the United States Supreme Court struck down a Texas statute that in part required standards for abortion facilities to be equivalent to minimum standards for ambulatory surgical centers, on the grounds that the requirement: (1) does not confer medical benefits sufficient to justify the burdens on access that it imposes; (2) places a substantial obstacle in the path of a woman seeking a previability abortion; and (3) constitutes an undue burden on abortion access.

Section

1 Licensure of certain facilities that perform abortions. Adds § 145.417.

Subd. 1. License required for facilities that perform ten or more abortions per month. (a) Requires facilities where ten or more abortions are performed per month to be licensed by the commissioner of health and subject to licensure requirements under Minnesota Rules, chapter 4675 (outpatient surgical centers). Exempts hospitals and outpatient surgical centers from having to obtain a separate license.

Section

(b) Allows certain parties to seek an injunction against the continued operation of an unlicensed facility.

(c) States that sanctions in this subdivision do not restrict other available sanctions.

Subd. 2. Inspections; no notice required. Requires the commissioner to perform routine and comprehensive inspections and investigations of facilities described in subdivision 1, not more than two times per year. Allows the inspection to be without notice and requires the facility to be open at all reasonable times for inspection.

Subd. 3. Licensure fee. Requires facilities to pay an annual license fee of \$3,712 to be collected by the commissioner of health according to section 144.122 (general licensing fees and deposits statute).

Subd. 4. Suspension, revocation, and refusal to renew. Allows the commissioner to refuse to grant or renew licenses and allows suspension and revocation of licenses for the following grounds:

- (1) violating this section or Minnesota Rules, chapter 4675 (outpatient surgical centers);
- (2) permitting, aiding, or abetting an illegal act in the facility;
- (3) conduct or practices detrimental to the welfare of the patient;
- (4) obtaining or attempting to obtain a license by fraud or misrepresentation; or
- (5) a pattern of conduct involving one or more physicians in the facility who have a financial or economic interest in the facility and have not provided notice and disclosure of that interest.

Subd. 5. Hearing. Requires a hearing be provided to a facility prior to any suspension, revocation, or refusal to renew a license. Puts the burden of proof of a violation on the commissioner and allows a new license application to be filed if the conditions upon which the revocation, suspension, or refusal to renew are based are corrected. Granting of the new license is conditional upon inspection for compliance with this section and Minnesota Rules, chapter 4657.

Subd. 6. Severability. Allows for severability of any provision of this section if a provision is found to be unconstitutional.

- 2 Appropriation.** Appropriates \$32,000 in fiscal year 2018 to the commissioner of health from the state government special revenue fund for licensing activities under the above section.