Research Protocol for Targeted Regulation of Abortion Providers (TRAP) Laws

Prepared by the Policy Surveillance Program Staff

December 2019
Targeted Regulation of Abortion Providers (TRAP) Laws

Abortion Facility Licensing (AFL), Ambulatory Surgical Centers (ASC), and Hospitalization Requirements (HR)

I. Date of Protocol: December 2019

II. Scope: Compile state laws that impose facility and/or operational requirements specifically on facilities that provide abortions, collectively known as Targeted Regulation of Abortion Providers (TRAP) laws. This research is comprised of three separate datasets: (1) Abortion Facility Licensing (AFL) laws; (2) Ambulatory Surgical Centers (ASC) laws; and (3) Hospitalization Requirements (HR). The AFL dataset is limited to laws requiring facilities in which abortions are performed to be regulated under a distinct abortion facility licensing provision and/or meet special requirements regulating abortion providers. The ASC dataset is limited to laws requiring facilities in which abortions are performed to be licensed ASCs and/or meet regulations governing ASCs. The HR dataset is limited to laws requiring facilities in which abortions are performed to be licensed hospitals. Advancing New Standards in Reproductive Health Care (ANSIRH) and the Policy Surveillance Program (PSP) collaborated to create these datasets. These datasets complement a fourth dataset related to state laws regulating requirements for facilities that perform office-based surgery (OBS).

III. Primary Data Collection

a. Project Dates: April 2016 – August 2016; April 2018 – December 2019

b. Dates Covered in the Dataset: August 1, 2016 – December 1, 2019. Each dataset started out as cross-sectional, analyzing TRAP laws as they were in effect at one point in time, as of August 1, 2016. The datasets were then updated to be longitudinal, covering changes in the law from August 1, 2016 through December 1, 2018. The December 2019 update covered changes from December 1, 2018 to December 1, 2019.
c. **Data Collection Methods:** The Policy Surveillance Program Staff (Team) building this dataset consisted of two legal researchers (“Researchers”) and one supervisor (“Supervisor”). Guttmacher Institute and Westlaw Next were used to identify which states had TRAP laws. These secondary sources and a subject matter expert from ANSIRH were consulted to assist with defining the scope of the laws included in this dataset and to assist with data collection method decisions.

d. **Databases Used:** Research was conducted using Westlaw Next and state-specific legislature websites. The Researchers also consulted a combination of secondary sources (Guttmacher.org, Center for Reproductive Rights, ANSIRH).

i. Full text versions of the laws were pulled from each respective state legislature website.

e. **Search Terms:**

i. Keyword searches, and search string developed by ANSIRH, were supplemented by examination of the table of contents of each relevant section of the state law identified for statues and regulations related to abortion facility licensing, ambulatory surgical center requirements, and hospitalization requirements. Below are the final search strings used to collect the relevant law:

a. ("abort!" /20 "license" "accredit!" "facilit!")

b. ("abortion" /50 agreement transfer privileges /20 hospital)

c. ("abort!" /50 "ambulatory")

d. TE((abort! or (terminat! /5 pregnan!)) /50 ((license /10 (facility! or clinic or office or ambulatory or health)) or (certif! or regist! or facil! or accredit! or ambulatory or institution or agreement or transfer or privileges) or ((trimester or weeks) /15 hospital)) and PR(health or abortion or (pregnan! /3 terminat!))

ii. Additionally, any court decision or attorney general opinion affecting the enforceability of TRAP provisions were also researched and included.

iii. Researchers also collected effective dates for the relevant statutes and regulations included within the scope.

iv. Once all the relevant statutes and regulations were identified for a jurisdiction, a master sheet was created that summarized the relevant statute or regulation.

v. The Master Sheet for each jurisdiction includes the most recent statutory history for each statute and regulation. The most recent effective dates, or the date when a version of law or regulation becomes enforceable, are recorded for each relevant statute and regulation.

vi. All 51 jurisdictions were 100% independently, redundantly researched to confirm that all relevant law was being collected by the Researchers.
vii. Discrepancies were reviewed by a supervisor and sent to the Researchers. The team met to discuss and resolve all divergences (discrepancies in the original research and redundant research).

f. Initial Returns and Additional Inclusion or Exclusion Criteria: Included laws pertaining to regulation of facilities providing abortions.
   i. The following variables were researched while analyzing TRAP laws:
      • Triggers for facility licensing requirements
      • Requirements for abortions to be performed in hospitals
      • Licensing requirements and exceptions
      • Penalties for violations of licensing requirements
      • Room requirements for facilities
      • Requirements for physical facility features
      • Facility policy requirements
      • Physician qualifications and nursing staff requirements
      • Requirements related to hospital transfers
      • Requirements for hospital admitting privileges
      • Court decisions and Attorney General opinions affecting enforceability of TRAP provisions
   ii. Excluded laws pertaining specifically to:
      • Facility regulations triggered by viability, or at 24 weeks from LMP
      • Hospitalization requirements triggered by viability, or at 24 weeks from LMP
      • Specific requirements for licensed hospitals
      • Facility requirements imposed only on new construction or renovations, unless it would apply to existing abortion facilities (e.g. TX)
      • Requirements triggered only by use of general anesthesia

IV. Coding

a. Development of Coding Scheme: The project was originally conceptualized by a team at ANSIRH in 2015. The PSP team took over the project in April 2016 and worked in collaboration with ANSIRH to determine the focus of the research. The Team conceptualized the coding questions, then circulated them to ANSIRH for review. When the questions were finalized, the Team entered the questions into the Workbench, a web-based software coding platform. As the Team developed the coding scheme they recorded the dataset terminology below:
   i. Dataset terminology:
• “Targeted Regulation of Abortion Providers (TRAP) laws” are laws regulating abortion providers through abortion facility licensing laws, ambulatory surgical center requirements, and hospital requirements.
• “Abortion” is the induced termination of pregnancy by medical or procedural/surgical means.
• “Medical abortion” is abortion performed by administering medication to evacuate the uterus.
• “Procedural/surgical abortion” is abortion performed by using aspiration and/or instrumentation to evacuate the uterus.
• “Gestational age” is the length of the pregnancy as measured in number of weeks or trimesters.
  a. “Last menstrual period (LMP)” is the date of a woman’s presumed last menstrual period and is the most common method of pregnancy dating.
  b. “Actual gestation” refers to number of weeks of gestation as measured from conception.
• “Abortion facility” is a facility, clinic, or physician’s office providing abortions. “Abortion facility” does not include ambulatory surgical centers or hospitals.
• “Ambulatory surgical center (ASC)” is a licensed ambulatory surgical center as defined by the law. The term ambulatory surgical center (ASC) includes ambulatory surgical facility (ASF) and ambulatory surgical treatment center (ASTC).
• “Physician” is a licensed physician qualified to perform abortions through experience and training.
• “Hospital” is a licensed hospital as defined by the law.
• “Hospital admitting privileges” are privileges granted to a physician to admit patients to a particular hospital.
• “Hospital staff privileges” are privileges granted to a physician allowing the physician to perform certain procedures or operations at the hospital.
• “Transfer agreements” are agreements between an abortion providing facility and a hospital, back-up physician and/or emergency transport service, providing that the hospital, back-up physician and/or emergency transport service will accept or facilitate the transfer of a patient from the OBS facility to a hospital if hospital-based observation or treatment of the patient is needed.

b. Coding Methods—The coding methods below apply to all three TRAP datasets (AFL, ASC, HR).
  i. The most restrictive set of regulations applicable to abortion providers were coded, and where particular provisions did not apply to certain abortion providers, e.g. facilities performing only medical abortions, those exceptions were captured in a caution note for each coding question that was affected.
  ii. The legal text coded was limited to requirements relating specifically to TRAP laws. Statutes and regulations that are cited or cross-referenced in these policies were only coded and included in the legal text if necessary to
answer a coding question. External third-party “guidelines” incorporated by reference into policies are referenced but not coded or included in the legal text.

iii. Citations for relevant court or attorney general opinions were included in the legal text. However, the text of the opinions was not included in the dataset. Details of relevant court and/or attorney general opinions were captured in caution notes.

c. **AFL Coding Methods:** The states coded in the AFL dataset have laws requiring facilities in which abortions are performed to be regulated under a distinct abortion facility licensing provision and/or meet special requirements regulating abortion providers. Below are specific coding rules used when coding the questions and responses in the AFL dataset:

**Question 1:** “Is there a TRAP law imposing facility licensing requirements on abortion providers?”
- States were coded as “yes” if they implemented licensing requirements specifically for facilities or clinics providing abortions.
- States were coded as “No, but the law imposes requirements for transfer agreements and/or admitting privileges” if they required facilities to hold hospital transfer agreements and/or physician admitting privileges, but not to comply with other licensing requirements.
- Because Texas has two ASC schemes: 1. laws requiring abortion facilities to meet ASC standards were coded in the AFL dataset, and 2. laws requiring facilities performing abortions at 16 weeks to be a licensed ASC were coded in the ASC dataset.

**Question 2:** “What conduct triggers the regulation of facilities in which abortions are performed? (Text response)”
- Where facilities performing abortions were subject to licensing regulations based on method, gestational age, number or percentage of abortion procedures performed, that information was coded in the text box.
- Where the regulation was triggered by performing any abortion, “Facilities performing any method of abortion at any stage of pregnancy” was coded in the text box.
- Where a trigger for gestational age did not specify that number of weeks is measured from LMP, then it was interpreted as being measured from conception, which is presumed to be 2 weeks after LMP. Thus 2 weeks were added to the specified number of weeks to standardize the gestational age as being measured from LMP. For example, a trigger at 14 weeks actual gestation would thus be coded as “at or above 16 weeks from LMP” where the law did not specify gestational age as being measured from LMP.

**Question 3:** “What method of abortion triggers regulation?”
- This question was coded where regulation was triggered by performing either medical abortions, procedural/surgical abortions, or both.
Where method of abortion triggering regulation was not specified in the law, or where both medical and procedural/surgical abortion triggered regulation, “Any method of abortion” was coded.

**Question 4:** “Does the law apply to abortions performed in the first trimester?”
- “Yes, the law applies to first trimester abortions” was coded where the law applied to abortions performed at any stage of pregnancy or during a point in the first trimester, or where the law did not specify what gestational age triggers regulation.
- “No, the law applies only to abortions performed in the second trimester” was coded where the law applied only to abortions performed at some point in the second trimester.”

**Question 5:** “What number of procedures triggers regulation?”
- Where regulation was triggered by performing a certain number of procedures within a specified timeframe, this question was coded.
- Where the number of procedures performed did not trigger regulation, “Regulation is not triggered by number of procedures” was coded.

**Question 6:** “What percentage of procedures triggers regulation?”
- Where regulation was triggered by performing a certain amount of procedures, “More than 50 percent of facility activities are surgical procedures” was coded.
- Where the percentage of procedures did not trigger regulation, “Regulation is not triggered by percentage of procedures” was coded.

**Question 7:** “Is the facility required to be licensed?”
- Where abortion providers were required to be licensed by the state department of health as an abortion facility or clinic, this question was coded as “yes.”

**Question 8:** “Is the facility required to be accredited?”
- A requirement for facilities to be accredited by a nationally recognized accrediting body were coded as “yes.”

**Question 9:** “What are the penalties for non-compliance with abortion facility licensing requirements?”
- This question was coded “Criminal penalties” where the law explicitly provided criminal penalties for violations of abortion facility requirements, which could apply to any individual (physician or non-physician) or corporation.
- This question was coded “Fines” where the law explicitly provided fines for violations of abortion facility requirements, which are generally imposed against the facility itself (i.e. licensee) but may also be against an individual (non-licensee) violator.
- This question was coded “Licensing sanctions against a facility” where licensing sanctions may be imposed against the license of an abortion facility.
- This question was not coded for licensing sanctions against an individual physician’s medical license.
• Where the law provided penalties outside the scope of the dataset, this question was coded as “None.”

**Question 9.1:** “What is the authorized fine?”
• Only the highest authorized fine for a first-time violation was coded.
• Where the law provided a range of allowable fines for a first-time violation, only the highest allowable fine was coded.
• Where the law provided that each day of non-compliance constitutes a separate violation which may be fined, this information was captured in a caution note as a fine “per day.”

**Question 9.2:** “What are the authorized criminal penalties?”
• The highest authorized criminal penalty for a first-time violation was coded.
• Specific classes of misdemeanors, i.e. “class A misdemeanor”, were coded only as “misdemeanor.”

**Question 9.3:** “What are the authorized licensing sanctions?”
• Where the law authorized revocation, suspension, or probation of facility licenses as a penalty for violations, this question was coded.

**Question 10:** “Can facilities seek exceptions from specific abortion facility licensing requirements?”
• Where the law authorized facilities to seek a waiver, variance, or other exemption from abortion facility licensing requirements, this question was coded “yes.”
• Where the law provided a grandfather clause exempting facilities from licensing requirements, this question was coded “no.”

**Question 11:** “Which types of abortion providing facilities, if any, are explicitly excluded from abortion facility licensing requirements under the law?”
• Where hospitals, ambulatory surgical centers, or other healthcare facilities were excluded from abortion facility licensing requirements, this question was coded as “Facility is already licensed as another class of health care facility.” Where the law specified types of excluded health care facilities, this was captured in a caution note.
• Where physician’s offices were excluded from abortion facility licensing requirements, this question was coded as “Private physician practice.” Where private physician practice was defined in the law, this was captured in a caution note.
• Where an exemption for physician’s offices did not specify that certain abortion providers were exempt, “Private physician practice” was not coded.
• Where the law did not specify that certain facilities were excluded from licensing requirements, “No facilities are excluded” was coded.

**Question 12:** “What types of rooms must the facility have on-site?”
• Requirements related to areas, i.e. recovery area, were not coded as room requirements.
Where the law provided room requirements outside the scope of the dataset, this question was coded as “Rooms types are not specified.”
Where a facility was required to have either a procedure room or an operating room, but not both, only the procedure room requirement was coded and the information was included in a caution note.
Where a facility was required to have separate soiled and clean workrooms, “Facility must have separate soiled and clean instrument sterilization rooms” was coded.
Where regulations referenced construction guidelines for facility room requirements, this question was coded as “Some room requirements provided by external guidelines/standards” and the referenced guideline was cited in a caution note.
Where room requirements did not apply to all facilities, the more extensive requirements were coded and the exceptions were captured in a caution note.
Where a separate operating room, procedure room, instrument sterilization room, or recovery room was not required, “Room types are not specified” was coded.
Where facility requirements only applied to new constructions or renovations, and would not apply to existing abortion facilities, this question was coded as “Rooms types are not specified.”

**Question 12.1: “What size is the operating room required to be?”**
- Requirements related to total square footage of the operating room were coded. Where required dimensions of rooms were given, those measurements were converted to total square footage. For example, a room requirement of 12 ft x 12 ft was coded as “144 sq ft.”
- Where an operating room was required to be “adequate” or “sufficient” in size, this question was coded as “Adequate or sufficient.”
- Where an operating room was required but the size was not specified, “Operating room size is not specified” was coded.
- Where regulations referenced construction guidelines for facility room requirements, this question was coded as “Some room requirements provided by external guidelines/standards.”

**Question 12.2: “What size is the procedure room required to be?”**
- Requirements related to total square footage of the procedure room were coded. Where required dimensions of rooms were given, those measurements were converted to total square footage. For example, a room requirement of 12 ft x 12 ft was coded as “144 sq ft.”
- Where a procedure room was required to be “adequate” or “sufficient” in size, this question was coded as “Adequate or sufficient.”
- Where a procedure room was required but the size was not specified, “Procedure room size is not specified” was coded.
- Where regulations referenced construction guidelines for facility room requirements, this question was coded as “Some room requirements provided by external guidelines/standards.”

**Question 12.3: “What size is the recovery room required to be?”**
• Requirements related to total square footage of the recovery room were coded. Where required dimensions of rooms were given, those measurements were converted to total square footage. For example, a room requirement of 12 ft x 12 ft was coded as “144 sq ft.”
• Where a recovery room was required to be “adequate” or “sufficient” in size, this question was coded as “Adequate or sufficient.”
• Where a recovery room was required but the size was not specified, “Recovery room size is not specified” was coded.
• Where regulations referenced construction guidelines for facility room requirements, this question was coded as “Some room requirements provided by external guidelines/standards.”

Question 13: “What on-site features of the facility are regulated?”
• Where the law provided ventilation requirements but not temperature requirements, “Facility must meet ventilation and/or temperature requirements” was coded.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards” and the referenced guideline was cited in a caution note.
• Where required facility features did not apply to all facilities, the more extensive requirements were coded and the exceptions were captured in a caution note.
• Where the law provided facility feature requirements outside the scope of the dataset, this question was coded as “On-site features are not specified.”
• Where facility requirements only applied to new constructions or renovations, and would not apply to existing abortion facilities, this question was coded as “On-site features are not specified.”

Question 13.1: “What type of ventilation is required?”
• Requirements for ventilation that were general, such as “adequate”, “sufficient”, “comfortable”, or “satisfactory” were coded as “Adequate or sufficient.”
• Requirements for ventilation “to ensure the health and safety of a patient” were coded as “Adequate or sufficient.”
• Specific requirements related to number of air changes, filter efficiencies, etc., were coded as “specific ventilation requirements”, with details of the ventilation requirements captured in a caution note.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”
• Ventilation requirements for toilet or storage areas were not coded.

Question 13.2: “What hallway width is required?”
• Where the hallway or public corridor width was required to be “sufficient” or “adequate” to accommodate stretchers or persons, this question was coded as “Adequate or sufficient.”
• All required hallway or corridor widths were coded as a measurement in inches.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”

**Question 13.3: “What doorway width is required?”**
• Where the doorway width was required to be “sufficient” or “adequate” to accommodate stretchers or persons, this question was coded as “Adequate or sufficient.”
• All required doorway widths were coded as a measurement in inches.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”

**Question 13.4: “What are the emergency power system requirements?”**
• Where an emergency power system was required in the law, but not specified as to operating time, emergency lighting, or power in operating or procedure rooms, this question was coded as “Emergency power system requirements are not specified.”
• Where emergency power systems were required to power equipment and/or lights in the operating room, “System must power operating room” was coded.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”
• Where emergency power system requirements were outside the scope of the dataset, this question was coded as “Emergency power system requirements are not specified.”

**Question 14: “What policies must a facility have in place?”**
• Where required policies were outside the scope of the dataset, this question was coded as “Policies are not specified”
• Where no policies were required, this question was coded as “Policies are not specified.”
• Quality improvement or quality assessment programs were coded as “Quality assurance.”
• Emergency or natural disaster preparedness programs were coded as “Disaster preparation.”
• Functional and/or routine maintenance of equipment was coded as “Preventative maintenance.”
• Policies related to sterilization of infectious waste were coded as “Infection control.”

**Question 15: “Do physicians need additional qualifications beyond state licensing and training and experience?”**
• This question was coded “Yes” where requirements for hospital staff privileges, board certification and/or specific residency training were imposed on physicians performing abortions.
Question 15.1: “What additional qualifications are required?”
- This question was coded where requirements for hospital staff privileges, board certification and/or specific residency training were imposed on physicians performing abortions.

Question 16: “Are specific levels of nursing staff required to perform specified functions in the facility?”
- Regulations related to nursing staff were coded only when specific levels of nursing staff were required, rather than permitted, to perform certain functions.
- Nursing staff requirements specific to administration of anesthesia were not coded.

Question 17: “Are there any requirements related to transferring a patient to a hospital?”
- This question was coded “Yes” where the law required facilities to have in place transfer agreements, transfer plans or protocols, and/or hospital admitting privileges.

Question 17.1: “What type of relationship, if any, is the facility required to have related to patient hospital transfers? (Text response)”
- Details of requirements related to transfer agreements, transfer plans or protocols, and hospital admitting privileges were coded in the text box.

Question 17.2: “What type of relationship, if any, is the facility required to have related to patient hospital transfers?”
- Requirements to have an “arrangement” related to hospital transfers were coded as “Transfer agreements.”
- Requirements to have a “written agreement” related to hospital transfers were coded as “Transfer agreements.”
- Requirements to “arrange” a transfer were coded as “Plan/protocol.”
- Selecting more than one answer choice indicates that all of the selected requirements apply.

Question 18: “Has the law been held unenforceable in whole or in part?”
- This question was coded “yes” where there was a relevant court opinion or attorney general opinion affecting the enforceability of one or more of the requirements coded.

Question 18.1: “Has the law been limited by a court decision?”
- This question was coded “yes” where there was a relevant court opinion affecting the enforceability of one or more of the requirements coded.
- A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
- Where related court opinions were not in scope of the dataset, this question was coded as “No.”
**Question 18.2:** “Has the law been limited by an attorney general opinion?”

- This question was coded “yes” where there was a relevant attorney general opinion affecting the enforceability of one or more of the requirements coded.
- A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
- Where related attorney general opinions were not in scope of the dataset, this question was coded as “No.”

**d. ASC Coding Methods:** The states coded in the ASC dataset have laws requiring facilities in which abortions are performed to be licensed ASCs and/or meet regulations governing ASCs. Below are specific coding rules used when coding the questions and responses in the ASC dataset:

**Question 1:** “What conduct triggers the regulation of ambulatory surgical center requirements? (Text response)”

- Where facilities performing abortions were subject to licensing regulations based on method, number, gestational age, or percentage of abortion procedures performed, that information was coded in the text box.
- Where the regulation was triggered by performing any abortion, “Facilities performing any method of abortion at any stage of pregnancy” was coded in the text box.
- Where a trigger for gestational age did not specify that number of weeks is measured from LMP, then it was interpreted as being measured from conception, which is presumed to be 2 weeks after LMP. Thus 2 weeks were added to the specified number of weeks to standardize the gestational age as being measured from LMP. For example, a trigger at 14 weeks actual gestation would thus be coded as “at or above 16 weeks from LMP” where the law did not specify gestational age as being measured from LMP.
- In RI, requirements for “physician ambulatory surgical centers,” applying to surgical abortions from 15-18 weeks gestation, were captured in caution notes on relevant questions in addition to ASC laws.

**Question 2:** “Is there a TRAP law requiring abortion facilities to meet ambulatory surgical center requirements?”

- States were coded as “yes” if they implemented laws requiring abortion providers to comply with standards comparable to ambulatory surgical center requirements.
- For this and all following questions, the term ambulatory surgical center (ASC) includes ambulatory surgical facility (ASF), freestanding ambulatory surgical center (FASC), and ambulatory surgical treatment center (ASTC).
- Because Texas has two ASC schemes: 1. laws requiring abortion facilities to meet ASC standards were coded in the AFL dataset, and 2. laws requiring facilities performing abortions at 16 weeks to be a licensed ASC were coded in the ASC dataset.
Question 3: “What method of abortion triggers regulation?”
• This question was coded where regulation was triggered by performing either medical abortions, procedural/surgical abortions, or both.
• Where method of abortion triggering regulation was not specified in the law, or where both medical and procedural/surgical abortion triggered regulation, “Any method of abortion” was coded.

Question 4: “Does the law apply to abortions performed in the first trimester?”
• “Yes, the law applies to first trimester abortions” was coded where the law applied to abortions performed at any stage of pregnancy or during a point in the first trimester, or where the law did not specify what gestational age triggers regulation.
• “No, the law applies only to abortions performed in the second trimester” was coded where the law applied only to abortions performed at some point in the second trimester.

Question 5: “What number of procedures triggers regulation?”
• Where regulation was triggered by performing a certain number of procedures within a specified timeframe, this question was coded.
• Where the number of procedures performed did not trigger regulation, “Regulation is not triggered by number of procedures” was coded.

Question 6: “What percentage of procedures triggers regulation?”
• Where regulation was triggered by performing a certain amount of procedures, “More than 50 percent of facility activities are surgical procedures” was coded
• Where the percentage of procedures did not trigger regulation, “Regulation is not triggered by percentage of procedures” was coded.

Question 7: “Is the facility required to be licensed?”
• Where abortion providers were required to be licensed by the state department of health as an ASC, this question was coded as “yes.”

Question 8: “Is the facility required to be accredited?”
• A requirement for facilities to be accredited by a nationally recognized accrediting body were coded as “yes.”

Question 9: “What are the penalties for non-compliance with ambulatory surgical center requirements?”
• This question was coded “Criminal penalties” where the law explicitly provided criminal penalties for violations of ambulatory surgical center requirements, which could apply to any individual (physician or non-physician) or corporation.
• This question was coded “Fines” where the law explicitly provided fines for violations of ambulatory surgical center requirements, which are generally imposed against the facility itself (i.e. licensee) but may also be against an individual (non-licensee) violator.
• This question was coded “Licensing sanctions against a facility” where licensing sanctions may be imposed against the license of an ambulatory surgical center.
• This question was not coded for licensing sanctions against an individual physician’s medical license.
• Where the law provided penalties outside the scope of the dataset, this question was coded as “None.”

**Question 9.1:** “What is the authorized fine?”
• Only the highest authorized fine for a first-time violation was coded.
• Where the law provided a range of allowable fines for a first-time violation, only the highest allowable fine was coded.
• Where the law provided that each day of non-compliance constitutes a separate violation which may be fined, this information was captured in a caution note as a fine “per day.”

**Question 9.2:** “What are the authorized criminal penalties?”
• The highest authorized criminal penalty for a first-time violation was coded.
• Specific classes of misdemeanors, i.e. “class A misdemeanor”, were coded only as “misdemeanor.”

**Question 9.3:** “What are the authorized licensing sanctions?”
• Where the law authorized revocation, suspension, or probation of facility licenses as a penalty for violations, this question was coded.

**Question 10:** “Can facilities seek exceptions from specific ambulatory surgical center requirements?”
• Where the law authorized facilities to seek a waiver, variance, or other exemption from ASC requirements, this question was coded “yes.”
• Where the law provided a grandfather clause exempting facilities from licensing requirements, this question was coded “no.”

**Question 11:** “Which types of abortion providing facilities, if any, are explicitly excluded from ambulatory surgical center requirements?”
• Where hospitals or other healthcare facilities were excluded from ASC requirements, this question was coded as “Facility is already licensed as another class of health care facility.” Where the law specified types of excluded health care facilities, this was captured in a caution note.
• Where physician’s offices performing abortions were excluded from ASC requirements, this question was coded as “Private physician practice.” Where private physician practice was defined in the law, this was captured in a caution note.
• Where an exemption for physician’s offices did not specify that certain abortion providers were exempt, “Private physician practice” was not coded.
• Where the law did not specify that certain facilities were excluded from licensing requirements, “No facilities are excluded” was coded.

**Question 12:** “What types of rooms must the facility have on-site?”
• Requirements related to areas, i.e. recovery area, were not coded as room requirements.
• Where the law provided room requirements outside the scope of the dataset, this question was coded as “Rooms types are not specified.”
• Where a facility was required to have either a procedure room or an operating room, but not both, only the procedure room requirement was coded and the information was included in a caution note.
• Where a facility was required to have separate soiled and clean workrooms, “Facility must have separate soiled and clean instrument sterilization rooms” was coded.
• Where regulations referenced construction guidelines for facility room requirements, this question was coded as “Some room requirements provided by external guidelines/standards” and the referenced guideline was cited in a caution note.
• Where room requirements did not apply to all facilities, the more extensive requirements were coded and the exceptions were captured in a caution note.
• Where a separate operating room, procedure room, instrument sterilization room, or recovery room was not required, “Room types are not specified” was coded.
• Where facility requirements only applied to new constructions or renovations, and would not apply to existing abortion facilities, this question was coded as “Rooms types are not specified.”

**Question 12.1: “What size is the operating room required to be?”**
• Requirements related to total square footage of the operating room were coded. Where required dimensions of rooms were given, those measurements were converted to total square footage. For example, a room requirement of 12 ft x 12 ft was coded as “144 sq ft.”
• Where an operating room was required to be “adequate” or “sufficient” in size, this question was coded as “Adequate or sufficient.”
• Where an operating room was required but the size was not specified, “Operating room size is not specified” was coded.
• Where regulations referenced construction guidelines for facility room requirements and/or size requirements, this question was coded as “Some room requirements provided by external guidelines/standards.”

**Question 12.2: “What size is the procedure room required to be?”**
• Requirements related to total square footage of the procedure room were coded. Where required dimensions of rooms were given, those measurements were converted to total square footage. For example, a room requirement of 12 ft x 12 ft was coded as “144 sq ft.”
• Where a procedure room was required to be “adequate” or “sufficient” in size, this question was coded as “Adequate or sufficient.”
• Where a procedure room was required but the size was not specified, “Procedure room size is not specified” was coded.
• Where regulations referenced construction guidelines for facility room requirements and/or size requirements, this question was coded as “Some room requirements provided by external guidelines/standards.”
Question 12.3: “What size is the recovery room required to be?”
- Requirements related to total square footage of the recovery room were coded. Where required dimensions of rooms were given, those measurements were converted to total square footage. For example, a room requirement of 12 ft x 12 ft was coded as “144 sq ft.”
- Where a recovery room was required to be “adequate” or “sufficient” in size, this question was coded as “Adequate or sufficient.”
- Where a recovery room was required but the size was not specified, “Recovery room size is not specified” was coded.
- Where regulations referenced construction guidelines for facility room requirements and/or size requirements, this question was coded as “Some room requirements provided by external guidelines/standards.”

Question 13: “What on-site features of the facility are regulated?”
- Where the law provided ventilation requirements but not temperature requirements, “Facility must meet ventilation and/or temperature requirements” was coded.
- Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards” and the referenced guideline was cited in a caution note.
- Where required facility features did not apply to all facilities, the more extensive requirements were coded and the exceptions were captured in a caution note.
- Where the law provided facility feature requirements outside the scope of the dataset, this question was coded as “On-site features are not specified.”
- Where facility requirements only applied to new constructions or renovations, and would not apply to existing abortion facilities, this question was coded as “On-site features are not specified.”

Question 13.1: “What type of ventilation is required?”
- Requirements for ventilation that were general, such as “adequate”, “sufficient”, “comfortable”, or “satisfactory” were coded as “Adequate or sufficient.”
- Requirements for ventilation “to ensure the health and safety of a patient” were coded as “Adequate or sufficient.”
- Specific requirements related to number of air changes, filter efficiencies, etc. were coded as “specific ventilation requirements”, with details of the ventilation requirements captured in a caution note.
- Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”
- Ventilation requirements for toilet or storage areas were not coded.

Question 13.2: “What hallway width is required?”
- Where the hallway or public corridor width was required to be “sufficient” or “adequate” to accommodate stretchers or persons, this question was coded as “Adequate or sufficient.”
- All required hallway or corridor widths were coded as a measurement in inches.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”

**Question 13.3:** “What doorway width is required?”
• Where the doorway width was required to be “sufficient” or “adequate” to accommodate stretchers or persons, this question was coded as “Adequate or sufficient.”
• All required doorway widths were coded as a measurement in inches.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”

**Question 13.4:** “What are the emergency power system requirements?”
• Where an emergency power system was required in the law, but not specified as to operating time, emergency lighting, or power in operating or procedure rooms, this question was coded as “Emergency power system requirements are not specified.”
• Where emergency power systems were required to power equipment and/or lights in the operating room, “System must power operating room” was coded.
• Where regulations referenced construction guidelines for required facility features, this question was coded as “Some specifications provided by external guidelines/standards.”
• Where emergency power system requirements were outside the scope of the dataset, this question was coded as “Emergency power system requirements are not specified.”

**Question 14:** “What policies must a facility have in place?”
• Where required policies were outside the scope of the dataset, this question was coded as “Policies are not specified”
• Where no policies were required, this question was coded as “Policies are not specified.”
• Quality improvement or quality assessment programs were coded as “Quality assurance.”
• Emergency or natural disaster preparedness programs were coded as “Disaster preparation.”
• Functional and/or routine maintenance of equipment was coded as “Preventative maintenance.”
• Policies related to sterilization of infectious waste were coded as “Infection control.”

**Question 15:** “Do physicians need additional qualifications beyond state licensing and training and experience?”
• This question was coded “Yes” where requirements for hospital staff privileges, board certification and/or specific residency training were imposed on physicians performing abortions.
Question 15.1: “What additional qualifications are required?”
- This question was coded “Yes” where requirements for hospital staff privileges, board certification and/or specific residency training were imposed on physicians performing abortions.

Question 16: “Are specific levels of nursing staff required to perform specified functions in the facility?”
- Regulations related to nursing staff were coded only when specific levels of nursing staff were required, rather than permitted, to perform certain functions.
- Nursing staff requirements specific to administration of anesthesia were not coded.

Question 17: “Are there any requirements related to transferring a patient to a hospital?”
- This question was coded “Yes” where the law required facilities to have in place transfer agreements, transfer plans or protocols, and/or hospital admitting privileges

Question 17.1: “What type of relationship, if any, is the facility required to have related to patient hospital transfers? (Text response)”
- Details of requirements related to transfer agreements, transfer plans or protocols, and hospital admitting privileges were coded in the text box.

Question 17.2: “What type of relationship, if any, is the facility required to have related to patient hospital transfers?”
- Requirements to have an “arrangement” related to hospital transfers were coded as “Transfer agreements.”
- Requirements to have a “written agreement” related to hospital transfers were coded as “Transfer agreements.”
- Requirements to “arrange” a transfer were coded as “Plan/protocol.”
Selecting more than one answer choice indicates that all of the selected requirements apply.

Question 18: “Has the law been held unenforceable in whole or in part?”
- This question was coded “yes” where there was a relevant court opinion or attorney general opinion affecting the enforceability of one or more of the requirements coded.

Question 18.1: “Has the law been limited by a court decision?”
- This question was coded “yes” where there was a relevant court opinion affecting the enforceability of one or more of the requirements coded.
- A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
- Where related court opinions were not in scope of the dataset, this question was coded as “No.”
Question 18.2: “Has the law been limited by an attorney general opinion?”
- This question was coded “yes” where there was a relevant attorney general opinion affecting the enforceability of one or more of the requirements coded.
- A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
- Where related attorney general opinions were not in scope of the dataset, this question was coded as “No.”

e. HR Coding Methods: The states coded in the HR dataset have laws requiring facilities in which abortions are performed to be licensed hospitals. Below are specific coding rules used when coding the questions and responses in the HR dataset:

Question 1: “Is there a TRAP law requiring abortions to be performed in a hospital?”
- States were coded as “yes” if they implemented a law requiring abortions to be performed in a hospital.

Question 2: “What conduct triggers a hospitalization requirement under the law? (Text response)”
- Where abortion providers were subject to hospitalization requirements based on method or gestational age of abortion procedures performed, that information was coded in the text box.
- Requirements triggered by the first trimester were coded as “Any stage of pregnancy.”
- Where a trigger for gestational age did not specify that number of weeks is measured from LMP, then it was interpreted as being measured from conception, which is presumed to be 2 weeks after LMP. Thus 2 weeks were added to the specified number of weeks to standardize the gestational age as being measured from LMP. For example, a trigger at 14 weeks actual gestation would thus be coded as “at or above 16 weeks from LMP” where the law did not specify gestational age as being measured from LMP.
- Requirements for abortions to be declared a medical emergency were not coded for this question.

Question 3: “What method of abortion triggers a hospitalization requirement?”
- This question was coded where hospitalization requirement was triggered by performing either medical abortions, procedural/surgical abortions, or both.
- Where method of abortion triggering the requirement was not specified in the law, or where both medical and procedural/surgical abortion triggered the requirement, “Any method of abortion” was coded.

Question 4: “Does the law apply to abortions performed in the first trimester?”
- “Yes, the law applies to first trimester abortions” was coded where the law applied to abortions performed at any stage of pregnancy or during a point in the first trimester, or where the law did not specify what gestational age triggers regulation.
• “No, the law applies only to abortions performed in the second trimester” was coded where the law applied only to abortions performed at some point in the second trimester.

**Question 5:** “Has the law been held unenforceable in whole or in part?”

• This question was coded “yes” where there was a relevant court opinion or attorney general opinion affecting the enforceability of one or more of the requirements coded.

**Question 5.1:** “Has the law been limited by a court decision?”

• This question was coded “yes” where there was a relevant court opinion affecting the enforceability of a hospitalization requirement.
• A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
• Where related court opinions were not in scope of the dataset, this question was coded as “No.”

**Question 5.2:** “Has the law been limited by an attorney general opinion?”

• This question was coded “yes” where there was a relevant attorney general opinion affecting the enforceability of a hospitalization requirement.
• A brief summary of the opinion’s ruling, including which provisions were affected by the ruling, were captured in a caution note.
• Where related attorney general opinions were not in scope of the dataset, this question was coded as “No.”

V. Quality Control

a. **Quality Control – Background Research:** All 51 jurisdictions were 100% redundantly researched in each of the three TRAP datasets to confirm that all relevant laws were collected by the Researchers. Each divergence was discussed and resolved. The Researchers consulted a combination of secondary sources (Guttmacher.org, Center for Reproductive Rights, ANSIRH) to verify the states that do not have a TRAP law.

b. **Quality Control – Original Coding:** Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document each day the Researchers completed coding to examine the data for any missing responses, citations, and caution notes.

c. **Quality Control – Redundant Coding:** Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document each day the Researchers completed redundant coding to calculate divergence rates. 100% of the records were redundantly coded throughout the life of the project in each of the three TRAP datasets.

• **Redundant Coding for AFL**
  Twenty-three states had AFL regulations that were in scope and two additional states imposed transfer agreement and/or admitting privilege requirements. After coding the first ten jurisdictions, the
rate of divergence was 16% on June 29, 2016. A coding review meeting was held and all divergences were resolved. Divergences (discrepancies in the original coding and redundant coding) are resolved through consultation and discussion with subject matter experts and the Supervisor. Questions were edited as necessary to clear up unclear questions and unnecessary responses. The Supervisor assigned the next ten jurisdictions for redundant coding and the rate of divergence dropped to 9.2% on August 15, 2016. Again, a coding review meeting was held and all divergences were resolved. The Supervisor assigned the next four jurisdictions and the rate of divergence spiked to 14.8% on August 29, 2016. The Team had a meeting to discuss the spike and all coding divergences were discussed and resolved. The Supervisor assigned one final jurisdiction and the divergence rate was 7.1% on December 13, 2016. The Team discussed and resolved all divergences.

- **Redundant Coding for ASC**
  Thirteen states had ASC regulations that were in scope. After coding the first seven jurisdictions, the rate of divergence was 12.4% on June 29, 2016. A coding review meeting was held and all divergences were resolved. Questions were edited as necessary. The Supervisor assigned the next three jurisdictions for redundant coding and the rate of divergence slightly increased to 12.6% on August 15, 2016. Again, a coding review meeting was held and all divergences were resolved. The Supervisor assigned the next two jurisdictions and the rate of divergence decreased to 10% on August 30, 2016. The Team had a meeting to discuss and resolve all divergences. The Supervisor assigned three final jurisdictions and the divergence rate was 15% on December 13, 2016. The Team discussed and resolved all divergences.

- **Redundant Coding for HR**
  Sixteen states had HR regulations that were in scope. After coding the first 10 jurisdictions, the rate of divergence was 4.10% on June 27, 2016. A coding review meeting was held and all divergences were resolved. Questions were edited as necessary. The Supervisor assigned the next 10 jurisdictions for redundant coding and the rate of divergence increased to 6% on August 12, 2016. Again, a coding review meeting was held and all divergences were resolved. The Supervisor assigned the final 5 jurisdictions and the rate of divergence slightly increased to 6.3% on August 30, 2016. The Team had a meeting to discuss and resolve all divergences. The Supervisor assigned two final jurisdictions and the divergence rate spiked to 27.3% on December 13, 2016. The Team discussed and resolved all divergences.

### Table 1. Coding Quality Control

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<th>Dataset</th>
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<th>Divergence Rate</th>
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d. **Quality Control – Post-Production Statistical Quality Control (SQC):** The Supervisor typically runs a statistical quality control procedure after each dataset is completed. However, since this dataset was redundantly coded at 100% and the Team had a subject matter expert repeatedly checking the validity of the coding, there was no post-production statistical quality control check.

e. **Quality Control – Final Data Check:** The Team checked the final coding against secondary sources, including [Guttmacher Institute](https://www.guttmacher.org) and previous coding that was completed by an internal team of researchers at ANSIRH. Each divergence was discussed as a group and resolved. Prior to publication, the Supervisor downloaded all coding data into Microsoft Excel to do a final review of coding answers, statutory and regulatory citations, and caution notes. All unnecessary caution notes were deleted, and all necessary caution notes were edited for publication.

VI. **Quality Control – 2018 Update**

a. **Quality Control – Background Research:** All 51 jurisdictions were researched in each of the three TRAP datasets to collect changes to existing TRAP laws, changes to case law/AG opinions, or new TRAP laws enacted since August 2016. The Researchers consulted a combination of secondary sources (Guttmacher.org, Center for Reproductive Rights, ANSIRH) to verify changes to the law.

b. **Quality Control – Original Coding:** Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document once the Researcher completed coding to examine the data for any missing responses, citations, and caution notes.

c. **Quality Control – Redundant Coding:** Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document once the Researchers completed redundant coding to calculate divergence rates. 100% of the records with substantive updates to the law were redundantly coded in each of the three TRAP datasets.

- **Redundant Coding for AFL**
The Supervisor assigned five records for redundant coding and the divergence rate was .09% on January 16, 2019. The Team discussed and resolved all divergences.

- **Redundant Coding for ASC**
  The Supervisor assigned three records for redundant coding and the divergence rate was .02% on January 16, 2019. The Team discussed and resolved all divergences.

- **Redundant Coding for HR**
  The Supervisor assigned two records for redundant coding and the divergence rate was .44% on January 16, 2019. The Team discussed and resolved all divergences.

### VII. Quality Control – 2019 Update

a. **Quality Control – Background Research:** All 51 jurisdictions were researched in each of the three TRAP datasets to collect changes to existing TRAP laws, changes to case law/AG opinions, or new TRAP laws enacted since December 1, 2018. The Researchers consulted a combination of secondary sources (Guttmacher.org, Center for Reproductive Rights, ANSIRH) to verify changes to the law.

b. **Quality Control – Original Coding:** Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document once the Researcher completed coding to examine the data for any missing responses, citations, and caution notes.

c. **Quality Control – Redundant Coding:** Quality control consisted of the Supervisor exporting the data into a Microsoft Excel document once the Researchers completed redundant coding to calculate divergence rates. 100% of the records with substantive updates to the law were redundantly coded in each of the three TRAP datasets.

- **Redundant Coding for AFL**
  The researchers redundantly coded the four states (AZ, AR, NC, VA) with updates. The divergence rate was 12% on November 25, 2019. The Team discussed and resolved all divergences.

- **Redundant Coding for ASC**
  The initial assignment of redundant coding for one state (IL) produced a 9% divergence rate. Another round of redundant coding for one state (MO) produced a 2% rate of divergence on November 25, 2019. The Team discussed and resolved all divergences.

- **Redundant Coding for HR**
  The researchers redundantly coded one state (MA) that had an update, and the rate of divergence was 28.6% on November 25, 2019. The original coder diverged on a parent question and all of the questions contingent on that parent. The Team discussed and resolved all divergences.