Health Facility Compliance Guidance Letter

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<th>Number: GL 19-2000</th>
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<td>Title: Preservation of Records from Forensic Medical Examinations (HB 531 – 86R)</td>
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<td>Provider Types: General Hospitals and Special Hospitals</td>
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<td>Date Issued: June 16, 2020</td>
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1.0 Subject and Purpose

The purpose of this letter is to provide instruction on the passage of House Bill (HB) 531, relating to the retention by hospitals and physicians of certain medical records of a sexual assault victim. HB 531 requires physicians and hospitals to retain the medical record from a forensic medical examination of a sexual assault victim for 20 years.

The Health Facility Compliance unit of the Health Care Regulation department of the Health and Human Services Commission conducts surveys and investigations of all hospitals in Texas.

This letter outlines provider responsibilities and expectations.

2.0 Policy Details & Provider Responsibilities

The Health Facility Compliance unit reviews hospital compliance with requirements set forth by statute.\(^1\) HB 531 amended Texas Health and Safety Code (HSC) Chapter 241 by adding Section 241.1031, relating to preservation of records from a forensic medical examination. All hospitals must comply with all provisions of HSC Chapter 241 under current rule.\(^2\)

Under Section 241.1031, a hospital may not destroy a medical record from the forensic medical examination of a sexual assault survivor conducted under Article 56.06 or 56.065 of the Texas Code of Criminal Procedure until

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\(^1\) See Health & Safety Code, Chapter 241.
\(^2\) See Texas Administrative Code, Title 25, §133.121.
the 20th anniversary of the date the record was created.3 The hospital may maintain such a record in the same form in which the hospital maintains other medical records.4 The retention requirements for other medical records remain unchanged.5

HB 531 also amended Occupations Code, Chapter 153, requiring the Texas Medical Board to adopt rules requiring physicians to preserve all sexual assault survivors’ forensic medical examination records for a duration of 20 years. Therefore, hospitals should ensure that physicians at their facilities who perform forensic medical examinations are aware of this requirement.

HB 531’s effective date was September 1, 2019 and applies to a medical record created on or after March 1, 2020.

3.0 Background/History

The stated purpose of HB 531 is to address a backlog of sexual assault kits and to extend the records retention timeframes from 10 years to 20 years, thus affording sexual assault survivors the right to due process.

4.0 Resources


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5.0 Contact Information

If you have any questions about this letter, please contact the Policy, Rules, and Training unit by email at: HCQ_PRT@hhsc.state.tx.us.

4 See Health & Safety Code §241.1031(b).