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BILL



ANALYSIS

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House Bill 5711 (Substitute H-1 as reported without amendment)

Sponsor: Representative Bruce R. Rendon

House Committee: Health Policy

Senate Committee: Judiciary

CONTENT

The bill would amend the Public Health Code to do the following in regard to abortions:

- Require a physician or qualified person assisting a physician to screen a patient orally regarding coercion to abort at the time she first presented at a facility for an abortion.
- Require a physician or assistant to take certain actions if the patient disclosed that she was the victim of domestic violence or coercion to abort.
- Require a facility in which abortions were performed to post and make available information regarding violence against women and coercion to abort.
- Require the Department of Community Health (DCH) to develop, draft, and print or make available information regarding domestic violence and coercion to abort.
- Require the DCH to develop, draft, and print screening and training tools regarding coercion to abort.
- Require a physician or assistant to give an abortion patient a physical copy of the prescreening summary on prevention of coercion to abort, at least 24 hours before the physician performed the abortion.
- Require a physician to confirm with the patient that the coercion-to-abortion screening was performed, before she signed an acknowledgment and consent form.
- Prohibit a physician from diagnosing and prescribing a medical abortion (a procedure that uses a prescription drug), without first personally performing a physical examination of the patient.
- Require a physician to be physically present at the location of a medical abortion and at the time any prescription drug was dispensed or administered during a medical abortion.
- Require a physician to maintain at least \$1.0 million worth of professional liability coverage if he or she performed six or more abortions per month and met certain other conditions regarding liability or professional disciplinary sanctions.
- Include violations of several proposed requirements among the grounds for professional disciplinary sanctions.

The bill also would do the following in regard to fetal remains or a dead fetus:

- Require all fetal remains resulting from abortions to be disposed of by means lawful for other dead bodies, including burial, cremation, or interment.
- Require fetal remains resulting from an abortion to be incinerated separately from other medical waste, if they were disposed of by cremation.
- Require arrangements for the disposition of a dead fetus delivered in an institution to be made according to requirements for authorization for the final disposition of a body, unless the parent or parents requested responsibility for final disposition.
- Require notice to the parent or parents that they had a right to determine the final disposition of a dead fetus or fetal remains, in the case of a fetal death or miscarriage outside an institution.
- Require a funeral director, or another person responsible for the final disposition, to obtain authorization from the parents or parent before final disposition of fetal remains resulting from a miscarriage (as currently required for a dead fetus).

- Require a funeral director, individual in charge of an institution, or another person making the final disposition of a dead fetus or fetal remains to take into account the express wishes of the parent or parents.
- Provide that a person who failed to dispose of fetal remains resulting from an abortion as required, or failed to obtain the proper authorization for final disposition of a dead body, would be responsible for a State civil infraction, and prescribe a maximum fine of \$1,000 per violation.

In addition, the bill would require a private practice office to be licensed as a freestanding surgical outpatient facility if the facility advertised outpatient abortion services and performed six or more abortions per month.

The bill would take effect on January 1, 2013.

MCL 333.2803 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have a significant and negative fiscal impact on the Department of Licensing and Regulatory Affairs. Under the bill, medical providers that performed six or more abortions per month would have to be licensed as a freestanding surgical outpatient facility (FSOF) and undergo annual inspection by the Bureau of Health Systems (BHS). Under current law, a provider must be licensed only if more than 50% of its patients receive an abortion. According to abortion data from the Department of Community Health, an additional 16 providers would be required to receive FSOF licensure under the bill.

Currently, FSOFs are required to pay a \$238 annual fee for licensure. To the extent that the DCH figures are accurate, the bill would result in an additional \$3,808 annually for the BHS. In a 2012 report, however, the BHS indicated that for a self-sustaining FSOF licensing program, FSOF license fees would need to be \$4,653 for each facility annually, assuming the licenses were renewed annually but on-site inspections were conducted only triennially. Under current law, inspections of FSOFs are required annually, and the BHS has estimated that the inspection of these additional 16 facilities would cost about \$9,700 each in the first year, and \$5,700 per year thereafter. Since each of the new FSOFs would annually generate only \$238, the bill would cost the BHS, in total, about \$151,000 for the first year, and \$87,000 per year after the first.

The bill also would introduce some unknown new costs to the Bureau of Health Professions related to verifying whether certain providers that perform abortions maintained professional liability insurance of at least \$1.0 million.

In addition, any person who failed to dispose of fetal remains as prescribed by the bill would be responsible for a State civil infraction and would be subject to a civil fine of not more than \$1,000. Revenue from these fines would benefit public libraries.

Finally, the DCH would incur some minor administrative costs from the following:

- Updating abortion consent forms used by providers.
- Creating notices to be posted in facilities that provide abortions.
- Developing a prescreening summary for the prevention of coerced abortions.
- Developing training tools for providers to use in screening for coercion.

These administrative costs would be borne by existing DCH resources.

Date Completed: 8-14-12

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.