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FISCAL IMPACT REPORT

SPONSOR Sharer **LAST UPDATED** 02/18/2025
ORIGINAL DATE 02/17/2025
SHORT TITLE Safety Requirements for Abortions **BILL NUMBER** Senate Bill 371
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA	No fiscal impact	\$48.7	\$48.7	\$97.3	Recurring	General Fund
HCA	No fiscal impact	\$48.6	\$48.6	\$97.3	Recurring	Federal Matching funds
Courts, prosecutors and defendants	No fiscal impact	Uncertain, probably minimal	Uncertain, probably minimal	Uncertain, probably minimal	Recurring	General Fund
Total	No fiscal impact	\$97.3	\$97.3	\$184.6		

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bills 234 and 236 and Senate Bills 57, 347 and 404.

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 Health Care authority (HCA)
 Department of Health (DOH)
 New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Senate Bill 371

Senate Bill 371 (SB371) limits the performance of operative abortion and the prescription of medication to induce abortion only to licensed physicians. Medications to induce abortions could only be filled by a pharmacy licensed through [New Mexico’s] Pharmacy Act. Those violating these provisions would be subject to a fine of up to \$5 thousand.

Section 2 of the bill adds to language in Section 24-34-3, “Public Body Prohibited Action, part of the Section 34, “Reproductive and Gender-Affirming Care Freedom.” that prohibits denying, restricting or interfering with access to or provision of reproductive care or gender-affirming care “within the medical standard of care.”. The added sentence states that abortion would be outside

the medical standard of care if performed outside a health facility licensed by the Health Care Authority.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 371. HCA indicates a need for one FTE to implement, monitor and enforce the provisions of this bill, at a cost of \$97.3 thousand, equally divided between the state general fund and federal matching funds.

According to NMAG, “There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced actions seeking imposition of a civil penalty and appeals from such imposition, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.”

SIGNIFICANT ISSUES

Senate Bill 371 would restrict provision of prescriptions for medications that result in abortion and the performance of procedural abortion solely to licensed physicians, leaving out nurse practitioners and others who are an important part of the medical work force, especially in rural areas. Currently slightly more than half of New Mexico abortions are carried out using medications, primarily mifepristone, according to the Kaiser Family Foundation. The bill’s requirement that a pharmacy filling such a prescription must be licensed under New Mexico’s Pharmacy Act, thereby probably eliminating the use of mail-order pharmacies and clinic-dispensed medications.

According to HCA, “If SB371 is enacted, access to medically necessary abortions would be reduced by reducing the number of qualified practitioners by healthcare providers mitigating risk of civil penalties described in the bill. Addressing statewide provider shortages continues to be a significant challenge while developing and maintaining provider networks that meet the needs of the Medicaid population. This challenge is particularly acute in rural areas and “OB deserts,” where access to obstetric care and other essential health services is severely limited. According to the most recent New Mexico Health Care Workforce Committee Report, the state is short 59 OB-GYN physicians, and 344 Primary Care physicians with the biggest disparities in rural counties. Limiting the provider types capable of ordering an abortion will likely limit access especially in the rural setting.”

The Department of Health disputes the implicit assertion in the bill that physician-mediated abortion is safer than that performed by other health practitioners. It references studies that show no difference between physician-mediated and mid-level-practitioner mediated abortions, noting, “Based on 8 studies with 22 thousand participants, there was no significant difference in the risk of complications between mid-level providers and doctors.” DOH goes on to point out a likely negative effect of restricting abortion to being provided only by physicians:

Where abortion is illegal or highly restricted, pregnant people may resort to unsafe means

to end an unwanted pregnancy, including self-inflicted abdominal and bodily trauma, ingestion of dangerous chemicals, and reliance on unqualified or predatory abortion providers. Limiting the types of providers who can deliver medication and procedural abortion would increase health care professional shortages, probably most severely in rural and frontier parts of the state. That would mean increased gaps in access to safe, legal and best practice reproductive care.

NMAG makes the following points:

- The majority of states require that a licensed physician be the provider performing an abortion procedure. In 15 states, statutory restrictions on medication abortion tend to focus on limiting who can prescribe medication abortion pills or how pills can be provided. All 15 states require medication abortion to be provided by a physician.
- It can be anticipated that there may be challenges to the law, as a violation of a woman's right to privacy under the Fourteenth Amendment's Due Process Clause, and based on a claim that the Federal Food, Drug, and Cosmetic Act (FD&C Act), 21 U.S.C. 301 et. seq, preempts state restrictions on medication abortion.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bills 234, which requires resuscitation of any infant with any sign of life after an abortion procedure; House Bill 236, which requires 24 hours' notice of reversibility of medication-induced abortion; Senate Bills 57, which protects the identity of abortion providers; Senate Bill 347, which protects the beliefs of those working in an abortion-providing facility who oppose abortion; and Senate Bill 404, which provides privacy for those seeking reproductive or gender-affirming care.

TECHNICAL ISSUES

Section 2 of the bill introduces the word "abortion," in the sentence added to a statute that includes "reproductive health care" and "gender-affirming care." It is not clear if there is any implication of the added sentence to any other aspect of reproductive health care or to gender-affirming care.

HCA indicates that "SB371 includes a civil penalty not to exceed five thousand dollars (\$5,000 for a person found to have knowingly and willfully violated the provisions. The bill does not identify which agency(s) would be responsible for oversight."

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