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FISCAL IMPACT REPORT

SPONSOR Ortiz y Pino ORIGINAL DATE 2/15/17
 LAST UPDATED 3/13/17 HB _____

SHORT TITLE Hospital Patient Protections SB 282/aSJC

ANALYST Chilton/Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to other bills dealing with abortion and contraception:
 Abortion: House Bills 37, 220 and 221; Senate Bills 183 and 361.
 Contraception: House Bill 284, Senate Bill 347

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (OAG)
 New Mexico Medical Board (MB)
 Board of Nursing (BN)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 282 strikes “Establishing Damages” from the title and deletes any penalty related passages from the bill. The bill requires hospitals to provide reproductive health service to a patient.

Synopsis of Bill

Senate Bill 282 would prohibit hospitals from imposing their views in the following situations:

- 1) Provision of a reproductive health service (e.g., termination of pregnancy), when withholding that service would endanger the patient’s life or health, and
- 2) Prohibiting a health care provider from exercising her/his best professional judgment with regard to reproductive life services.

The second provision is laid out more extensively, and includes practitioners’ right to use their best professional judgment in counseling patients about the patients’ health status and risks, to

make referral for health care services at the time the practitioner thought appropriate, and providing reproductive health care services when the practitioner believes that failure to do so would seriously threaten the patient's life or health or violate the standard of medical care.

Both patients and health care providers could take legal action if they felt their rights under the act had been abridged, with damages prescribed, including an award of at least \$5,000 per violation as well as payment for legal fees.

Definitions of terms are provided, including a broad definition of reproductive health services, which would include “contraception; termination of pregnancy; treatment of ectopic pregnancy; miscarriage management; assisted reproductive technology, including infertility treatment; screening and treatment of sexually transmitted infections and services related to human immunodeficiency virus and acquired immune deficiency syndrome; pregnancy and post-natal care; and sterilization.”

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 282, and responding agencies did not identify any fiscal implications for those agencies.

SIGNIFICANT ISSUES

OAG indicates possible conflict with other statute, specifically Sections 30-5-1 to 3 NMSA 1978, specifically Section 30-5-2, which allows hospitals and individuals to be free from discipline or recrimination for failing to provide an abortion. However, Senate Bill 282 begins with the phrase, “Notwithstanding the provisions of any other state law...” which would seem to resolve the conflict.

The Board of Nursing identifies the restriction of the requirement of the act to hospitals, whereas other types of institution might also restrict providers' ability to counsel patients according to their best informed judgments. For example, a medical group may make requirements that their physicians or other health care providers not discuss the option of abortion.

RELATES TO Abortion: House Bill 37, which would require that life-saving assistance be offered to all “viable” infants born as a result of abortion procedures, House Bill 220 and Senate Bill 183, which would define and prohibit “late term abortion,” and House Bill 221 and Senate Bill 361, which would require parental notification before an abortion would be performed on a minor (defined differently in the two bills, and in both cases subject to various exceptions)..

House Bill 284 and Senate Bill 347 deal in different ways with the availability of insurance coverage for contraceptive drugs and devices.

TECHNICAL ISSUES

BN notes that the word “medical” used in the terms “medical research” and “medical organizations” on page 4 does not encompass the breadth of research in related fields such as nursing.

OTHER SUBSTANTIVE ISSUES

The Medical Board, supporting practitioners' rights to offer life- or health-saving care, states "The principle of the health care practitioner abiding by standard, accepted medical principles and practices would be unacceptably violated under the conditions where there is a serious risk to the patient's life and health."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Patients could be denied reproductive healthcare services at hospitals even if the denial threatened the life or health of the patient. Hospitals could continue to restrict health care providers' right to provide what the practitioners considered to be the best-supported medical care for their patients.

LAC/al/sb/jle