

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6943**  
**BILL NUMBER: SB 371**

**NOTE PREPARED: Feb 21, 2013**  
**BILL AMENDED: Feb 21, 2013**

**SUBJECT: Abortion-Inducing Drugs.**

**FIRST AUTHOR: Sen. Holdman**  
**FIRST SPONSOR:**

**BILL STATUS: CR Adopted - 1<sup>st</sup> House**

**FUNDS AFFECTED: X GENERAL**  
**X DEDICATED**  
**FEDERAL**

**IMPACT: State & Local**

**Summary of Legislation:** (Amended) This bill amends the definition of "abortion clinic" to include facilities that provide abortion-inducing drugs. The bill provides a definition of "abortion-inducing drug".

The bill specifies that only a physician may administer to a pregnant woman an abortion-inducing drug, and sets forth the procedure the physician must follow before giving, selling, dispensing, administering, prescribing, or providing an abortion-inducing drug to a pregnant woman. The bill requires certain physicians who learn of an adverse event following the use of an abortion-inducing drug to report the adverse event to the Medical Licensing Board. It also specifies that the reports of adverse events related to abortion-inducing drugs and maintained by the Medical Licensing Board are public records.

The bill makes a violation concerning distribution of an abortion-inducing drug and failure to report an adverse event a Class A misdemeanor.

**Effective Date:** July 1, 2013.

**Summary of NET State Impact:** (Revised) The fiscal impact of this bill would depend upon the number of newly defined medical abortion clinics that would meet the licensure requirements in the bill. Because the number of survey staff is currently operating above capacity, the increase in the number of inspections that may be due to the expanded definition of an abortion clinic, could result in a small loss of federal reimbursement associated with other certification activities since abortion clinic inspections are paid with 100% state funds. Licensure revenue would be impacted to the extent that the number of newly defined clinics meeting the licensure requirements would increase. The fiscal impact if any, would be expected to be small.

The cost of the Medical Licensing Board requirement to collect and compile adverse event reports associated with drug-induced abortions would depend on the number of reports that might be received.

The bill could also have expenses and revenues associated with a new Class A misdemeanor; however, these are likely to be small.

**Explanation of State Expenditures:** *Licensure Survey Costs:* The bill would potentially increase the number of licensed abortion clinics due to the addition of medical abortions to the definition of abortion clinic. An existing provision in the ISDH rules exempts clinics operating before July 1, 2006, from specific physical plant requirements. Any increase in the number of licensure inspections required would likely be related to the length of time clinics that would fall under the new definition have been in operation. ISDH has estimated this provision may add up to five clinics that would need to be inspected and licensed. Impact on the number of surveyor days required would depend on the number of applications for licensure the ISDH would receive as a result of the changed definition; if five clinics apply, about 14 days of surveyor time would be required.

ISDH reports that due to the increase in the number of acute care facilities, the number of survey staff is currently operating above capacity and that an increase in survey hours would result in other surveys being delayed or would require additional staff. Licensure of abortion clinics is a state-operated program conducted with 100% state general funds, while hospital, ambulatory outpatient surgical center, and other acute care survey inspections are conducted in concert with federal Medicare and Medicaid certification surveys qualifying those survey expenses for 50% federal administrative matching funds. Shifting resources to add 14 days of surveyor time to 100% state-funded program surveys would effectively remove resources for 28 days of surveyor time from acute care surveys that currently qualify for federal matching funds.

(Revised) *Adverse Event Reporting:* The bill would require physicians retained by abortion clinics to report specified adverse events to the Medical Licensing Board. The bill further requires the Medical Licensing Board to compile the reports after redacting personally identifying information and to retain the reports as public records. The cost of collecting and compiling the reports would depend on the number of reports that might be received. The bill does not specify a reporting requirement for the Medical Licensing Board.

The bill establishes the Class A misdemeanor for a violation concerning distribution of an abortion-inducing drug and for failure to report an adverse event. In addition to criminal penalties, a person who violates the provisions of the bill also may be subject to disciplinary sanctions and civil liability.

**Explanation of State Revenues:** *Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

**Explanation of State Revenues:** The revision in the definition of abortion clinic to include medical abortions is estimated to add up to five facilities requiring licensure. Currently, the minimum abortion clinic license fee is \$500 annually. Any additional revenue would depend on the extent to which any newly defined facilities would meet the requirements necessary for licensure.

*Federal Funding associated with Acute Care Facility Surveys:* Because the ISDH reports that survey staff time is at capacity, assigning staff to surveys conducted with 100% state general funds would result in a decrease in federal funding associated with the matching funds available for Medicaid/Medicare acute care

certification activities if more clinics seek licensure as a result of the change in definition. Any decrease in federal revenue would depend on the number of new clinics that would seek licensure. Any decrease in revenue would likely be small.

**Explanation of Local Expenditures:** *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** ISDH; Indiana Professional Licensing Agency (IPLA), Medical Licensing Board.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** [http://www.accessdata.fda.gov/drugsatfda\\_docs/label/2005/020687s0131bl.pdf](http://www.accessdata.fda.gov/drugsatfda_docs/label/2005/020687s0131bl.pdf)  
Accessed on 12/15/2012.

**Fiscal Analyst:** Kathy Norris, 317-234-1360.