TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL MEMORANDUM

HB 977 - SB 1222

April 14, 2015

SUMMARY OF ORIGINAL BILL: Specifies that a physician must maintain records relating to abortion procedures for a period of five years.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (006460, 004425): Amendment 004425 specifies that, except in a medical emergency that prevents compliance, no abortion shall be performed or induced upon a pregnant woman unless the woman has been informed orally and in person by the attending physician who is to perform the abortion, or by the referring physician, of the following facts and has a signed consent provided her informed written consent:

- That according to the best judgment of her attending physician or referring physician she is pregnant;
- The probable gestational age of the unborn child at the time the abortion is to be performed, based upon information provided by her as to the time of her last menstrual period or after a history, physical examination, and appropriate laboratory tests;
- That if 24 or more weeks have elapsed from the first day of her last menstrual period or 22 or more weeks have elapsed from the time of conception, her unborn child may be viable, that is capable of sustained survival outside of the womb, with or without medical assistance, and that if a viable child is prematurely born alive in the course of an abortion, the physician performing the abortion has a legal obligation to take steps to preserve the life and health of the child;
- That numerous public and private agencies and services are available to assist her during her pregnancy and after the birth of her child or place the child for adoption, and that her attending physician or referring physician will provide her with a list of the agencies and the services available is she so requests; and
- The normal and foreseeable medical benefits, risks, or both of undergoing an abortion or continuing the pregnancy to term.
- A general description of the method of abortion to be used and the medical instructions to be followed subsequent to the abortion.

The pregnant woman must provide her informed written consent, given freely and without coercion. Such consent shall be treated as confidential.

Except in a medical emergency that prevents compliance, specifies that no abortion shall be performed until a waiting period of 48 hours have elapsed after the attending or referring physician has provided the aforementioned information, including the day on which the

information was provided. After the 48 hours have elapsed and prior to the performance of the abortion, the patient is required to sign such consent form. If this waiting period is subsequently declared unconstitutional, the waiting period shall be 24 hours, subject to the same medical emergency exemption. If the injunction or declaration is subsequent vacated or reversed, the waiting period shall remain 48 hours. The physician attending or inducing the abortion is required provide the pregnant woman with a duplicate copy of the signed consent form. Defines a medical emergency, as applicable, as a medical condition that, on the basis of the physician's good faith medical judgment, so complicates a medical condition of a pregnant woman as to necessitate an immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of major bodily function. When a medical condition compels the performance of an abortion, the physician is required to inform the woman of the medical reasons supporting the physician's judgment to perform the abortion. The physician is required to state in the pregnant women's medical reasons the basis for such determination.

Establishes a new Class E felony offense for a physician who performs an abortion that has failed to provide the information required of this legislation, wait the required 48 hours before performing the abortion, or failing to receive written informed consent from the woman. Crease a new Class E misdemeanor offense for a physician which fails to provide the woman with a copy of the signed consent form. Specifies that any physician who intentionally, knowingly, or recklessly violates any requirements of this legislation is guilty of unprofessional conduct and such physician's license for the practice of medicine and surgery or osteopathy shall be suspect to suspension or revocation. Requires the Attorney General and Report to notify the Secretary of State and the executive secretary of the Tennessee Code Commission upon the occurrence of any court rendering these provisions unconstitutional. Amendment 006460 adds language identical to current state law.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The Board for Licensing Health Care Facilities (Board) has governing authority over ASTCs.
- Current Board Rule 1200-8-10-.07(c)(1) states: "*The ASTC shall have a radiologist either full-time or part-time on a consulting basis, both to supervise and to discharge professional radiological services*."
- This legislation would effectively eliminate this Board rule through statute.
- This legislation gives the appropriate governing body of an ASTC the ability to remove the requirement to provide radiological services. If radiological services are provided, the body must appoint an individual who can assure such services are provided in accordance with applicable law and rules.
- There are currently 157 licensed ASTCs in the state. They are either stand-alone or attached to a hospital.

- It is undeterminable whether an individual governing body of any ASTC will decide to continue providing radiological services or discontinue such services.
- If a center no longer provides radiological services, it may no longer need a radiologist; however, total demand for radiological services will stay constant.
- This will not directly impact the number of licensed ASTCs by the Board.
- The Board can make any changes to its Board rules during regularly scheduled meetings without any additional cost.
- The Board collects fee revenue from various licensing programs. Any revenue it collects in excess of expenditures is remitted to the General Fund at fiscal year-end.
- The Board had net surpluses of $599,456 in FY12-13 and $386,355 in FY13-14.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Jeffrey L. Spalding, Executive Director

/jdb