

Economic Impact Statement

LSA Document #19-163

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**Description of the Rule**

In 2017 and 2018, the Indiana legislature passed legislation requiring the Indiana State Department of Health (ISDH) to make changes to its administrative regulations concerning abortion clinics. This rulemaking adds a rule to separate the regulation abortion clinics performing only drug induced abortion from abortion clinics performing surgical abortions. The new regulation is basically the same as the previous regulation with changes required by SEA 404 and SEA 340 and minor technical corrections. In general, this rule separates the administrative rules for regulation of drug induced abortion clinics and surgical abortion clinics, provides for additional procedures concerning patient care, addresses requirements to help with patients who are coerced into abortions or victims of sex trafficking, addresses plans of corrections when clinics have problematic surveys that require action from the clinic, and adds information required in the application process.

Economic Impact on Small Businesses**1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

IC 5-28-2-6 defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the proceeding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

There are six abortion clinics that are small businesses.

2. Estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

This new rule is substantially similar to previous regulation for these clinics and adds only minimal reporting, record keeping, and administrative costs to the regulated clinics. The additional requirements are so minimal they should not add any additional costs to the regulated entities. Furthermore, the changes in administrative costs are all required by legislation.

3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.

Any economic impact for small businesses caused by compliance with the rule changes in this new rule is minimal and should not be significant.

4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; and not expressly required by the statute authorizing the agency to adopt the rule; or any other state or federal law.

ISDH is not imposing any costs above what is required by the statutes requiring this rulemaking. Where possible, ISDH based its regulations on current practices, which are sufficient to protect patient health, but not impose additional costs on the regulated entities. Other changes are the minimum required by the statute or technical changes that update outdated information that will have no fiscal impact on the regulated entities.

5. Regulatory Flexibility Analysis

Other factors considered:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

ISDH cannot make less stringent requirements for small businesses because the requirements are in place to protect patient health.

B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

The legislation requiring the changes to the abortion clinic rules requires the rules to be completed by January of 2019, therefore, ISDH does not have a choice for establishing less stringent deadlines for compliance.

C. Consolidation or simplification of compliance or reporting requirements for small businesses.

This rule is as simple as can be based on the legislative requirements.

D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

The changes made to this rule are based on legislative requirements and must be the same for all

regulated abortion clinics.

E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

All abortion clinics must be regulated to the same standards to protect patient health.

Conclusion

ISDH has made the changes to the rule required by recent legislation and has implemented it in the least restrictive way to protect patient health.

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