

By: Hegar

S.B. No. 404

A BILL TO BE ENTITLED

AN ACT

relating to health plan and health benefit plan coverage for abortions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle K to read as follows:

SUBTITLE K. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT

CHAPTER 1671. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1671.001. DEFINITIONS. In this chapter:

(1) "Abortion" has the meaning assigned by Section 171.002, Health and Safety Code.

(2) "Health benefit exchange" means an American Health Benefit Exchange administered by the federal government or created pursuant to Section 1311(b) of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148).

(3) "Qualified health plan" has the meaning assigned by Section 1301(a) of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148).

Sec. 1671.002. PROHIBITED COVERAGE THROUGH HEALTH BENEFIT EXCHANGE. (a) A qualified health plan offered through a health benefit exchange may not provide coverage for an abortion other than coverage for an abortion performed when a condition exists, based on the performing physician's good faith clinical judgment, that complicates the medical condition of the pregnant woman and

1 necessitates the abortion of her pregnancy to avert her death.

2 (b) This section does not prevent a person from purchasing  
3 optional supplemental coverage for abortions under Section  
4 1218.003.

5 SECTION 2. Subtitle A, Title 8, Insurance Code, is amended  
6 by adding Chapter 1218 to read as follows:

7 CHAPTER 1218. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

8 Sec. 1218.001. DEFINITION. In this chapter, "abortion" has  
9 the meaning assigned by Section 171.002, Health and Safety Code.

10 Sec. 1218.002. APPLICABILITY OF CHAPTER. (a) This chapter  
11 applies only to a health benefit plan that provides benefits for  
12 medical or surgical expenses incurred as a result of a health  
13 condition, accident, or sickness, including an individual, group,  
14 blanket, or franchise insurance policy or insurance agreement, a  
15 group hospital service contract, or an individual or group evidence  
16 of coverage or similar coverage document that is offered by:

17 (1) an insurance company;

18 (2) a group hospital service corporation operating  
19 under Chapter 842;

20 (3) a fraternal benefit society operating under  
21 Chapter 885;

22 (4) a stipulated premium company operating under  
23 Chapter 884;

24 (5) an exchange operating under Chapter 942;

25 (6) a health maintenance organization operating under  
26 Chapter 843;

27 (7) a multiple employer welfare arrangement that holds

1 a certificate of authority under Chapter 846; or

2 (8) an approved nonprofit health corporation that  
3 holds a certificate of authority under Chapter 844.

4 (b) This chapter applies to group health coverage made  
5 available by a school district in accordance with Section 22.004,  
6 Education Code.

7 (c) Notwithstanding Section 172.014, Local Government Code,  
8 or any other law, this chapter applies to health and accident  
9 coverage provided by a risk pool created under Chapter 172, Local  
10 Government Code.

11 (d) Notwithstanding any provision in Chapter 1551, 1575,  
12 1579, or 1601 or any other law, this chapter applies to:

- 13 (1) a basic coverage plan under Chapter 1551;  
14 (2) a basic plan under Chapter 1575;  
15 (3) a primary care coverage plan under Chapter 1579;

16 and

- 17 (4) basic coverage under Chapter 1601.

18 (e) Notwithstanding Section 1501.251 or any other law, this  
19 chapter applies to coverage under a small or large employer health  
20 benefit plan subject to Chapter 1501.

21 (f) Notwithstanding Section 1507.003 or 1507.053, this  
22 chapter applies to a standard health benefit plan provided under  
23 Chapter 1507.

24 Sec. 1218.003. COVERAGE BY HEALTH BENEFIT PLAN. (a) Except  
25 as provided by Subsection (b), a health benefit plan may provide  
26 coverage for abortion only if:

- 27 (1) the coverage is provided to an enrollee separately

1 from other health benefit plan coverage offered by the health  
2 benefit plan issuer;

3 (2) an enrollee pays separately from, and in addition  
4 to, the premium for other health benefit plan coverage a premium for  
5 coverage for abortion; and

6 (3) an enrollee provides a signature for coverage for  
7 abortion, separately and distinct from the signature required for  
8 other health benefit plan coverage offered by the health benefit  
9 plan issuer.

10 (b) Notwithstanding Subsection (a), a health benefit plan  
11 may provide coverage for an abortion performed when a condition  
12 exists, based on the performing physician's good faith clinical  
13 judgment, that complicates the condition of a pregnant enrollee and  
14 necessitates the abortion to avert the enrollee's death.

15 Sec. 1218.004. CALCULATION OF PREMIUM. (a) A health  
16 benefit plan issuer that provides coverage for abortion shall  
17 calculate the premium for the coverage so that the premium fully  
18 covers the estimated cost of abortion per enrollee, determined on  
19 an average actuarial basis.

20 (b) In calculating a premium under Subsection (a), the  
21 health benefit plan issuer may not take into account any cost  
22 savings in other health benefit plan coverage offered by the health  
23 benefit plan issuer that is estimated to result from coverage for  
24 abortion, including costs associated with prenatal care, delivery,  
25 or postnatal care.

26 (c) A health benefit plan issuer that provides coverage  
27 other than coverage for abortion may not provide a premium discount

1 to or reduce the premium for an enrollee for coverage other than  
2 coverage for abortion on the basis that the enrollee has health  
3 benefit plan coverage for abortion.

4 Sec. 1218.005. NOTICE BY ISSUER. A health benefit plan  
5 issuer that provides coverage for abortion shall at the time of  
6 enrollment in the health benefit plan provide each enrollee with a  
7 notice that:

8 (1) coverage for abortion is optional and separate  
9 from other health benefit plan coverage offered by the health  
10 benefit plan issuer;

11 (2) the premium cost for coverage for abortion is a  
12 premium paid separately from, and in addition to, the premium for  
13 other health benefit plan coverage offered by the health benefit  
14 plan issuer; and

15 (3) the enrollee may enroll in a health benefit plan  
16 that provides coverage other than coverage for abortion without  
17 obtaining coverage for abortion.

18 Sec. 1218.006. ACCEPTANCE OR REJECTION OF COVERAGE BY  
19 EMPLOYEES AND GROUP MEMBERS. If a small or large employer health  
20 benefit plan or group health benefit plan offers coverage for  
21 abortion, the employer offering the employee health benefit plan or  
22 the entity offering the group health benefit plan shall provide  
23 each employee or group member with an opportunity to accept or  
24 reject coverage for abortion:

25 (1) at the beginning of employment or when the group  
26 member's coverage begins, as applicable; and

27 (2) at least one time in each calendar year after the

1 first year of employment or group coverage.

2           SECTION 3. This Act applies only to a qualified health plan  
3 offered through a health benefit exchange or a health benefit plan  
4 that is delivered, issued for delivery, or renewed on or after  
5 January 1, 2012. A qualified health plan offered through a health  
6 benefit exchange or a health benefit plan that is delivered, issued  
7 for delivery, or renewed before January 1, 2012, is governed by the  
8 law as it existed immediately before the effective date of this Act,  
9 and that law is continued in effect for that purpose.

10           SECTION 4. This Act takes effect September 1, 2011.