

By: Smithee

H.B. No. 997

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. LEGISLATIVE CONSIDERATIONS

Sec. 1671.001. CONSTITUTIONALITY OF PATIENT PROTECTION AND AFFORDABLE CARE ACT. This subtitle does not constitute an acknowledgment by the legislature of the legitimacy of the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as a constitutional exercise of the power of the United States Congress.

CHAPTER 1672. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1672.001. 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 under Section 1311(b) of the Patient Protection and Affordable Care Act (42 U.S.C. Section 18031(b)).

(3) "Qualified health plan" has the meaning assigned by Section 1301(a) of the Patient Protection and Affordable Care Act (42 U.S.C. Section 18021(a)).

1       Sec. 1672.002. PROHIBITED COVERAGE THROUGH HEALTH BENEFIT  
2 EXCHANGE. (a) A qualified health plan offered through a health  
3 benefit exchange may not provide coverage for an abortion other  
4 than coverage for an abortion performed when a life-threatening  
5 physical condition exists, based on reasonable medical judgment,  
6 that complicates the medical condition of the pregnant woman or  
7 pregnant minor to an extent that the abortion of her pregnancy is  
8 necessary to prevent her death or a serious risk of substantial and  
9 irreversible physical impairment of a major bodily function of the  
10 woman or minor, other than a psychological or emotional condition.

11       (b) Subsection (a) does not authorize coverage for an  
12 abortion based on a potential future medical condition that may  
13 result from a voluntary act of the woman or minor.

14       (c) This section does not prevent a person from purchasing  
15 optional or supplemental coverage for abortions under a health  
16 benefit plan other than a qualified health plan offered through a  
17 health benefit exchange.

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

20 CHAPTER 1218. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

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

23       Sec. 1218.002. APPLICABILITY OF CHAPTER. (a) This chapter  
24 applies only to a health benefit plan that provides benefits for  
25 medical or surgical expenses incurred as a result of a health  
26 condition, accident, or sickness, including an individual, group,  
27 blanket, or franchise insurance policy or insurance agreement, a

1 group hospital service contract, or an individual or group evidence  
2 of coverage or similar coverage document that is offered by:

3 (1) an insurance company;

4 (2) a group hospital service corporation operating  
5 under Chapter 842;

6 (3) a fraternal benefit society operating under  
7 Chapter 885;

8 (4) a stipulated premium company operating under  
9 Chapter 884;

10 (5) an exchange operating under Chapter 942;

11 (6) a health maintenance organization operating under  
12 Chapter 843;

13 (7) a multiple employer welfare arrangement that holds  
14 a certificate of authority under Chapter 846; or

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

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

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

24 (d) Notwithstanding any provision in Chapter 1551, 1575,  
25 1579, or 1601 or any other law, this chapter applies to:

26 (1) a basic coverage plan under Chapter 1551;

27 (2) a basic plan under Chapter 1575;

1           (3) a primary care coverage plan under Chapter 1579;

2 and

3           (4) basic coverage under Chapter 1601.

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

7           (f) Notwithstanding Section 1507.003 or 1507.053, this  
8 chapter applies to a standard health benefit plan provided under  
9 Chapter 1507.

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

13           (1) the coverage is provided to an enrollee separately  
14 from other health benefit plan coverage offered by the health  
15 benefit plan issuer;

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

19           (3) an enrollee provides a signature for coverage for  
20 abortion, separately and distinct from the signature required for  
21 other health benefit plan coverage offered by the health benefit  
22 plan issuer.

23           (b) Notwithstanding Subsection (a), a health benefit plan  
24 may provide coverage for an abortion performed when a  
25 life-threatening physical condition exists, based on the  
26 performing physician's reasonable medical judgment, that  
27 complicates the medical condition of a pregnant enrollee to the

1 extent that the abortion of her pregnancy is necessary to prevent  
2 her death or a serious risk of substantial and irreversible  
3 physical impairment of a major bodily function of the enrollee,  
4 other than a psychological or emotional condition.

5 (c) Subsection (b) does not authorize coverage for an  
6 abortion based on a potential future medical condition that may  
7 result from a voluntary act of the enrollee.

8 Sec. 1218.004. CALCULATION OF PREMIUM. (a) A health  
9 benefit plan issuer that provides coverage for abortion shall  
10 calculate the premium for the coverage so that the premium fully  
11 covers the estimated cost of abortion per enrollee, determined on  
12 an average actuarial basis.

13 (b) In calculating a premium under Subsection (a), the  
14 health benefit plan issuer may not take into account any cost  
15 savings in other health benefit plan coverage offered by the health  
16 benefit plan issuer that is estimated to result from coverage for  
17 abortion, including costs associated with prenatal care, delivery,  
18 or postnatal care.

19 (c) A health benefit plan issuer that provides coverage  
20 other than coverage for abortion may not provide a premium discount  
21 to or reduce the premium for an enrollee for coverage other than  
22 coverage for abortion on the basis that the enrollee has health  
23 benefit plan coverage for abortion.

24 Sec. 1218.005. NOTICE BY ISSUER. A health benefit plan  
25 issuer that provides coverage for abortion shall at the time of  
26 enrollment in the health benefit plan provide each enrollee with a  
27 notice that:

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

4           (2) the premium cost for coverage for abortion is a  
5 premium paid separately from, and in addition to, the premium for  
6 other health benefit plan coverage offered by the health benefit  
7 plan issuer; and

8           (3) the enrollee may enroll in a health benefit plan  
9 that provides coverage other than coverage for abortion without  
10 obtaining coverage for abortion.

11           Sec. 1218.006. ACCEPTANCE OR REJECTION OF SUPPLEMENTAL  
12 COVERAGE BY EMPLOYEES AND GROUP MEMBERS. If a small or large  
13 employer health benefit plan or group health benefit plan offers  
14 coverage for abortion, the employer offering the employee health  
15 benefit plan or the entity offering the group health benefit plan  
16 shall provide each employee or group member with an opportunity to  
17 accept or reject supplemental coverage for abortion:

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

20           (2) at least one time in each calendar year after the  
21 first year of employment or group coverage.

22           SECTION 3. This Act applies only to a qualified health plan  
23 offered through a health benefit exchange or a health benefit plan  
24 that is delivered, issued for delivery, or renewed on or after  
25 January 1, 2014. A qualified health plan offered through a health  
26 benefit exchange or a health benefit plan that is delivered, issued  
27 for delivery, or renewed before January 1, 2014, is governed by the

H.B. No. 997

1 law as it existed immediately before the effective date of this Act,  
2 and that law is continued in effect for that purpose.

3 SECTION 4. This Act takes effect September 1, 2013.