

By: Smithee

H.B. No. 1435

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 L to read as follows:

SUBTITLE L. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT

CHAPTER 1691. LEGISLATIVE CONSIDERATIONS

Sec. 1691.001. 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 1692. COVERAGE FOR ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1692.001. 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. 1692.002. 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 any provision in Chapter 1551, 1575,
21 1579, or 1601 or any other law, this chapter applies to:

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

23 (2) a basic plan under Chapter 1575;

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

25 and

26 (4) basic coverage under Chapter 1601.

27 (d) Notwithstanding Section 1501.251 or any other law, this

1 chapter applies to coverage under a small or large employer health
2 benefit plan subject to Chapter 1501.

3 (e) Notwithstanding Section 1507.003 or 1507.053, this
4 chapter applies to a standard health benefit plan provided under
5 Chapter 1507.

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

9 (1) the coverage is provided to an enrollee separately
10 from other health benefit plan coverage offered by the health
11 benefit plan issuer;

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

15 (3) an enrollee provides a signature for coverage for
16 abortion, separately and distinct from the signature required for
17 other health benefit plan coverage offered by the health benefit
18 plan issuer.

19 (b) Notwithstanding Subsection (a), a health benefit plan
20 may provide coverage for an abortion performed when a
21 life-threatening physical condition exists, based on the
22 performing physician's reasonable medical judgment, that
23 complicates the medical condition of a pregnant enrollee to the
24 extent that the abortion of her pregnancy is necessary to prevent
25 her death or a serious risk of substantial and irreversible
26 physical impairment of a major bodily function of the enrollee,
27 other than a psychological or emotional condition.

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

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

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

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

20 Sec. 1218.005. NOTICE BY ISSUER. A health benefit plan
21 issuer that provides coverage for abortion shall at the time of
22 enrollment in the health benefit plan provide each enrollee with a
23 notice that:

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

27 (2) the premium cost for coverage for abortion is a

1 premium paid separately from, and in addition to, the premium for
2 other health benefit plan coverage offered by the health benefit
3 plan issuer; and

4 (3) the enrollee may enroll in a health benefit plan
5 that provides coverage other than coverage for abortion without
6 obtaining coverage for abortion.

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

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

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

18 SECTION 3. This Act applies only to a qualified health plan
19 offered through a health benefit exchange or a health benefit plan
20 that is delivered, issued for delivery, or renewed on or after
21 January 1, 2016. A qualified health plan offered through a health
22 benefit exchange or a health benefit plan that is delivered, issued
23 for delivery, or renewed before January 1, 2016, is governed by the
24 law as it existed immediately before the effective date of this Act,
25 and that law is continued in effect for that purpose.

26 SECTION 4. This Act takes effect September 1, 2015.