

**ELECTIVE ABORTIONS: COVERAGE
BY OPTIONAL RIDER ONLY**

House Bill 4828 as enrolled (vetoed)
Sponsor: Rep. Lauren Hager

**House Committee: Insurance and Financial
Services**
**Senate Committee: Families, Mental Health
and Human Services**

Senate Bill 645 as enrolled (vetoed)
Sponsor: Sen. Dave Jaye

Senate Bill 794 as enrolled (vetoed)
Sponsor: Sen. Joanne G. Emmons

**Senate Committee: Families, Mental Health
and Human Services**
House Committee: Insurance (Discharged)

Second Analysis (1-3-01)

THE APPARENT PROBLEM:

Many people believe abortion to be an immoral taking of a human life. Some people with this conviction are covered under health insurance policies that cover elective abortions as a matter of routine, despite the fact that such coverage runs counter to their most deeply held beliefs. Some of those who pay part of the cost of coverage believe they are indirectly facilitating the use of an immoral procedure. Legislation has been introduced that would address this problem, by requiring that coverage for elective abortions be offered only through optional riders; that is, that such coverage would only be available if freely chosen by the insured or covered person.

THE CONTENT OF THE BILLS:

House Bill 4828 and Senate Bill 645 would each amend a health-insurance related statute to specify that group and nongroup policies, certificates, or contracts could not provide coverage for elective abortions except by an optional rider for which an additional premium had been paid by the purchaser. The bills would take effect July 1, 2000 and would apply to policies, certificates, and contracts delivered issued for delivery, or renewed after that date. They would not

apply to benefits provided under Medicaid (cited as Chapter 531 of Title XIX of the Social Security Act).

The bills would allow an employer to purchase an optional rider for elective abortion coverage if 1) the cost of the rider was not factored into any premium amount for which individual employees contributed a portion of the premium paid either directly or through a payroll deduction; and 2) the employer provided notice to each employee that elective abortion was to be provided as a rider and that the coverage could be used by a minor or a dependent female without notice to the employee.

The bills would specify that they do not require a health insurer or an employer to provide or offer to provide an optional rider for elective abortion coverage

House Bill 4828 would amend the Nonprofit Health Care Corporation Act (MCL 550.1402d), to apply to the group and nongroup certificates of Blue Cross and Blue Shield of Michigan. Senate Bill 645 would amend the Insurance Code (MCL 500.3407c) to apply to individual and group contracts of health maintenance organizations (HMOs) and to expense-incurred

hospital, medical, or surgical policies or certificates of commercial health insurance companies.

Senate Bill 794 would amend the Public Health Code (MCL 333.16240) to prevent a health care professional or a health facility or agency from seeking or accepting reimbursement from an insurance company, health maintenance organization, or health care corporation for any services provided that were directly related to an elective abortion unless the reimbursement sought or accepted was from an optional rider provided under the provisions of House Bills 4828 and 4830. A licensee or registrant who violated the bill's provisions would be liable for a civil fine of up to \$10,000 per violation. (This would be in addition to existing administrative penalties for violations of the health code.) The Department of Consumer and Industry Services would be required to investigate an alleged violation and the attorney general, in cooperation with the department, could bring an action to enforce the bill's provisions.

(The bill's provisions are repeated. One set would amend Article 15 [at Section 16240], which addresses health care professionals. The second would amend Article 17 [at Section 20195] and addresses health care facilities and agencies.)

The bill says that it is not to be construed to affect legitimate and routine obstetric care, diagnostic testing, or other nonabortion procedures. It also says that nothing in the bill would restrict the right of a licensee or registrant to discuss abortion or abortion services with a pregnant patient.

The term "elective abortion" in all three bills would be defined to mean the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. The term would not include: 1) the prescription of or use of a drug or device intended as a contraceptive; or 2) the intentional use of an instrument, drug, or other substance or device by a physician to terminate a woman's pregnancy if the woman's physical condition, in the physician's reasonable medical judgment, necessitated the termination of the woman's pregnancy to avert her death.

Senate Bill 794 would take effect July 1, 2000, and would only apply to a licensee or registrant seeking or accepting reimbursement from health coverage under a

policy, certificate, or contract issued or renewed on or after July 1, 2000.

All three bills specify that they would not create a right to abortion, and state that, notwithstanding any other provision in the bills, a person could not perform an abortion prohibited by law.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills would have no fiscal implications. (9-19-00)

ARGUMENTS:

For:

Why should people with deeply held convictions that abortion is an immoral taking of a human life be forced to carry health insurance coverage for abortions or, what is worse, be forced to help finance such coverage? Isn't it outrageous that a person's conscience should be violated in this way, by being made to facilitate or finance or subsidize an activity that he or she abhors? Many people opposed to abortion may not even realize this coverage is available to them or may not understand the coverage is available to a daughter, whether the family wants it or not. The bills address this by preventing elective abortion coverage from being made available except as an optional rider. That is, an individual (for nongroup coverage) or an employer (for group coverage) would have to specifically choose the coverage and pay an additional premium. Employees could not be made to pay an additional premium for the coverage when the employer made this choice. It also makes employer purchasers notify employees that the plan has purchased an optional rider. This at least makes purchasers of health care coverage, and participants in health care plans, stop and think about what they are doing. Proponents of these bills say that abortion is not a health-related procedure. It does not improve anyone's "health"; indeed, it always ends a life. Senate Bill 794 prevents health care providers and facilities from billing separately for abortion-related services in an effort to circumvent the law.

Against:

The bills represents an effort to limit access to medically safe, legal abortions under dignified conditions, by putting financial and procedural barriers in the way of people who want coverage for this procedure. They are aimed at discouraging women from exercising their constitutional right to terminate a pregnancy. Note that they do not take into account

cases of rape or incest in the definition of “elective abortion” and contain no recognition that some women are faced with fetuses diagnosed with severe genetic abnormalities, some even incompatible with life. It does not recognize that in these and other less dramatic cases, women do not plan in advance to have an abortion. Critics say that this singling out of one medical procedure is a kind of reverse mandate, an interference in the insurance market in favor of one moral viewpoint. Some say it favors a particular religious viewpoint: what of those who object to blood transfusions, vaccinations, or certain invasive procedures? What of those who do not want to see insurance dollars spent on extraordinary measures to prolong life? What if those who desire to remain without children want to reject family coverage or maternity coverage? What if people unlikely through gender or genetic disposition to suffer a certain condition want to reject being covered or paying for the associated treatment? Health insurance plans ought to provide women coverage for a full range of reproductive services, including abortion. If anything, the law should mandate coverage for the most commonly used kinds of contraception, which would promote the goal of reducing unintended pregnancies.

Analyst: C. Couch

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.