

Legislative Analysis



ELECTIVE ABORTION SERVICES: OPTIONAL RIDER

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House Bill 5939

Sponsor: Rep. Stephen Ehardt

House Bill 5940

Sponsor: Rep. David Farhat

House Bill 5941

Sponsor: Rep. Fulton Sheen

Committee: Insurance

Complete to 11-29-04

A SUMMARY OF HOUSE BILLS 5939-5941 AS INTRODUCED 5-25-04

House Bill 5939 would amend the Public Health Code (MCL 333.16240 and 20195) to prohibit a person licensed or registered under the code 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 directly related to the performance of an elective abortion unless the reimbursement is from an optional rider.

House Bills 5940 and 5941 would amend two health insurance-related statutes to specify that group and nongroup policies, certificates, and contracts could not provide coverage for elective abortions except through an optional rider for which an additional premium had been paid by the purchaser.

House Bill 5940 would amend the Insurance Code (MCL 500.3407c) to apply to health maintenance organizations and commercial health insurers. House Bill 5941 would amend the Nonprofit Health Care Corporation Reform Act (MCL 550.1402d) to apply to Blue Cross and Blue Shield of Michigan.

Under those bills, an employer could purchase an optional rider to provide coverage for an elective abortion if both 1) the cost of the rider was not factored into any premium amount for which individual employees contribute a portion of the premium; and 2) the employer provided notice to each employee that elective abortion will be included as a rider and that the coverage could be used by a minor or dependent female without notice to the employee.

The bills also specify that they would not require an insurer, health maintenance organization, health care corporation, or employer to provide an optional rider for elective abortion coverage; that they do not create a right to abortion; and that a person "shall not perform an abortion that is prohibited by law."

The bills would all take effect January 1, 2005. They would not apply to benefits provided under Medicaid (cited as Title XIX of the Social Security Act).

The term "elective abortion" 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 apply to the prescription of or use of a drug or device intended as a contraceptive or 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, necessitates the termination of the woman's pregnancy to avert her death.

House Bill 5939 contains penalties for violations. In addition to administrative penalties, there would be a civil fine of up to \$10,000 per violation. The Department of Community Health would be required to investigate an alleged violation and the attorney general, in cooperation with DCH, could bring an action to enforce the bill's provisions.

House Bill 5939 also specifies: 1) that it is not to be construed to affect legitimate and routine obstetric care, diagnostic testing, or other nonabortion procedures; 2) that it does not restrict the right of a licensee or registrant to discuss abortion or abortion services with a patient who is pregnant; 3) that it does not create a right to abortion; and 4) that a person shall not perform an abortion that is prohibited by law.

FISCAL IMPACT:

House Bill 5939, as introduced, establishes a civil fine of up to \$10,000 against a licensed health professional or health facility that violates the provisions of the bill. This bill may have a fiscal impact on the licensing regulatory and enforcement functions of the Department of Community Health, in cases of violations.

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■ 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.