

Regular Session, 2010

HOUSE BILL NO. 1247

BY REPRESENTATIVE HOFFMANN

INSURANCE/HEALTH: Prohibits coverage of elective abortions by health insurance issuers

1 AN ACT

2 To enact R.S. 22:1016, relative to health insurance issuers; to provide for legislative intent;  
3 to provide for definitions; to provide for a prohibition on insurance coverage of  
4 elective abortions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 22:1016 is hereby enacted to read as follows:

7 §1016. Health insurance coverage of elective abortions prohibited

8 A. The legislature finds and declares all of the following.

9 (1) Federal funding for insurance plans that cover abortions is prohibited by  
10 the Hyde Amendment and the Federal Employee Health Benefits Program (FEHBP).

11 (2) Congress disregarded existing federal law and policy when it allowed  
12 insurance plans that cover abortions to receive federal subsidies through health care  
13 reform.

14 (3) In the Patient Protection and Affordable Care Act of 2010, P.L. 111-148,  
15 states are explicitly permitted to pass laws prohibiting qualified health plans offered  
16 through an Exchange in their state from offering abortion coverage.

17 (4) It is the longstanding policy of this state that the unborn child is a human  
18 being from the time of conception and is, therefore, a legal person for purposes of  
19 the unborn child's right to life and is entitled to the right to life from conception  
20 under the laws and constitution of this state. Further, the legislature finds and

1 declares that the longstanding policy of this state is to protect the right to life of the  
2 unborn child from conception by prohibiting abortion impermissible only because  
3 of the decisions of the United States Supreme Court and that, therefore, if those  
4 decisions of the United States Supreme Court are ever reversed or modified or the  
5 United States Constitution is amended to allow protection of the unborn then the  
6 former policy of this state to prohibit abortions shall be enforced.

7 (5) The decision not to fund abortion places no governmental obstacle in the  
8 path of a woman who chooses to terminate her pregnancy (500 U.S. 173, 201).

9 (6) Moreover, it is permissible for a state to engage in unequal subsidization  
10 of abortion and other medical services to encourage alternative activity deemed in  
11 the public interest (500 U.S. 173, 198).

12 (7) Citizens of Louisiana, like other Americans, oppose the use of public  
13 funds, both federal and state, to pay for abortions. For example, a January 2010  
14 Quinnipiac poll showed that seven in ten Americans were opposed to provisions in  
15 federal health care reform that use federal funds to pay for abortions and abortion  
16 coverage.

17 (8) The Guttmacher Institute which advocates for unfettered and taxpayer-  
18 funded access to abortion confirms that, based on Medicaid studies, more women  
19 have abortions when it is covered by private or public insurance programs.

20 B. As used in this Subpart:

21 (1) "Elective abortion" means an abortion for any reason other than to  
22 preserve the life of the mother when her life is endangered by a physical disorder,  
23 physical illness, or physical injury, including a life-endangering physical condition  
24 caused by or arising from the pregnancy itself.

25 (2) "Health insurance coverage" or "coverage" means benefits consisting of  
26 medical care provided or arranged for directly, through insurance or reimbursement,  
27 or otherwise, and includes health care services paid for under any plan, policy, or  
28 certificate of insurance.

1           (3) "Health insurance issuer" means any entity that offers health insurance  
2           coverage through a policy or certificate of insurance subject to state law that  
3           regulates the business of insurance. For purposes of this Subpart, a "health insurance  
4           issuer" shall include a health maintenance organization, as defined and licensed  
5           pursuant to Subpart I of Part I of Chapter 2 of this Title, the Office of Group  
6           Benefits, and any entity created pursuant to the Patient Protection and Affordable  
7           Care Act of 2010, P.L. 111-148.

8           C.(1) Any health insurance issuer, hospital, health or medical expense  
9           insurance policy, hospital or medical service contract, employee welfare benefit plan,  
10          health and accident insurance policy, or any other insurance contract of this type,  
11          including a group insurance plan, and a self-insurance plan, which delivers or issues  
12          for delivery policies or contracts for health insurance coverage in this state is  
13          prohibited from including benefits payable for elective abortions.

14          (2) On or after the effective date of this Act, Paragraph (C)(1) of this  
15          Section shall apply to any new policy, contract, program, or plan issued, which shall  
16          convert to conform to the provisions of this Section on or before the renewal date  
17          thereof.

18          D. Coverage which includes pregnancy termination necessary to preserve the  
19          life of the mother shall require that any physician who conducts such a procedure  
20          certify the following information in writing, which shall be placed in the medical file  
21          of the woman and shall be kept by the health care provider that conducted the  
22          pregnancy termination for a period of not less than seven years:

23                 (1) All medical indications supporting the conclusion that the termination of  
24                 pregnancy was necessary to preserve the life of the mother.

25                 (2) In the case that the unborn child is viable, that all reasonable steps, in  
26                 accordance with good medical practice, were taken to preserve the life of the unborn  
27                 child.

1 Section 2. Pursuant to Section 1303(a)(1), as amended by Section 10104(c), of the  
2 Patient Protection and Affordable Care Act of 2010, P.L. 111-148, all health plans to be  
3 offered through a State Exchange are prohibited from including elective abortion coverage.

4 Section 3. Nothing in this Act shall be construed or implied to recognize any  
5 independent right to abortion under the constitution or laws of this state, nor shall it be  
6 construed or implied to recognize the constitutional validity of the Patient Protection and  
7 Affordable Care Act of 2010, P.L. 111-148.

8 Section 4. This Act shall become effective upon signature by the governor or, if not  
9 signed by the governor, upon expiration of the time for bills to become law without signature  
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
12 effective on the day following such approval.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Hoffmann

HB No. 1247

**Abstract:** Prohibits all health insurance issuers from including abortion in any health care coverage available in the state.

Proposed law provides for legislative intent.

Proposed law provides definitions of "elective abortion," "health insurance issuer" and "health insurance coverage."

Proposed law provides that an abortion necessary to preserve the life of the mother shall not be deemed an "elective abortion."

Proposed law prohibits coverage of elective abortions by any health insurance issuer which provides plans or policies issued in the state.

Proposed law applies to any entity that offers health insurance coverage subject to state law that regulates the business of insurance; to the Office of Group Benefits; and to any entity created pursuant to the Patient Protection and Affordable Care Act (federal health care reform act) of 2010.

Proposed law requires that on or after the effective date of this Act, any new policy, contract, program, or plan issued shall not include benefits payable for elective abortions, with the prohibition on elective abortion effective on or before the renewal date of the coverage.

Proposed law requires that in a case when a physician performs an abortion to preserve the life of the mother (a non-elective abortion), the physician must certify in writing:

- (1) The specific medical indications leading to the conclusion that the abortion was necessary to preserve the life of the mother; and
- (2) In the case that the unborn child is viable, that all reasonable steps, in accordance with good medical practice, were taken to preserve the life of the unborn child.

Proposed law shall not be construed to recognize any independent right to abortion under the constitution or laws of this state.

Proposed law shall not be construed to recognize the constitutional validity of the Patient Protection and Affordable Care Act (federal health care reform act) of 2010.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 22:1016)