

Regular Session, 2010

HOUSE BILL NO. 1247

BY REPRESENTATIVES HOFFMANN, ARMES, BOBBY BADON, BARRAS, BILLIOT, BURFORD, TIM BURNS, CARMODY, CHAMPAGNE, CHANDLER, CONNICK, CROMER, DANAHAY, ELLINGTON, FANNIN, GEYMANN, GREENE, GUILLORY, HARDY, HARRISON, HAZEL, HENDERSON, HENRY, HILL, HINES, HOWARD, KLECKLEY, LABRUZZO, LAMBERT, LEBAS, LIGI, LITTLE, LOPINTO, MILLS, MONICA, MONTOUCET, MORRIS, PEARSON, PERRY, POPE, PUGH, RICHARD, RICHARDSON, SCHRODER, SIMON, SMILEY, JANE SMITH, TALBOT, THIBAUT, WILLMOTT, AND WOOTON AND SENATORS BROOME, HEBERT, KOSTELKA, LONG, MICHOT, QUINN, RISER, SHAW, AND WALSWORTH

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 enacted and the president signed into law the Patient Protection
12 and Affordable Care Act of 2010, P.L. 111-148.

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

1 (4) It is the longstanding policy of this state that the unborn child is a human
2 being from the time of conception and is, therefore, a legal person for purposes of
3 the unborn child's right to life and is entitled to the right to life from conception
4 under the laws and constitution of this state. Further, the legislature finds and
5 declares that the longstanding policy of this state is to protect the right to life of the
6 unborn child from conception by prohibiting abortion impermissible only because
7 of the decisions of the United States Supreme Court and that, therefore, if those
8 decisions of the United States Supreme Court are ever reversed or modified or the
9 United States Constitution is amended to allow protection of the unborn then the
10 former policy of this state to prohibit abortions shall be enforced.

11 (5) The decision not to fund abortion places no governmental obstacle in the
12 path of a woman who chooses to terminate her pregnancy (Rust v. Sullivan, 500 U.S.
13 173, 201 (1991)).

14 (6) Moreover, it is permissible for a state to engage in unequal subsidization
15 of abortion and other medical services to encourage alternative activity deemed in
16 the public interest (Rust v. Sullivan, 500 U.S. 173, 201 (1991)).

17 B. As used in this Subpart:

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

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

26 (3) "Health insurance issuer" means any entity that offers health insurance
27 coverage through a policy or certificate of insurance subject to state law that
28 regulates the business of insurance. For purposes of this Subpart, a "health insurance
29 issuer" shall include a health maintenance organization, as defined and licensed

1 pursuant to Subpart I of Part I of Chapter 2 of this Title, the Office of Group
2 Benefits, and any entity created pursuant to the Patient Protection and Affordable
3 Care Act of 2010, P.L. 111-148.

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

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

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

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

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

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

28 Section 3. Nothing in this Act shall be construed or implied to recognize any
29 independent right to abortion under the constitution or laws of this state, nor shall it be

1 construed or implied to recognize the constitutional validity of the Patient Protection and
2 Affordable Care Act of 2010, P.L. 111-148.

3 Section 4. If any provision or item of this Act, or the application thereof, is held
4 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
5 which can be given effect without the invalid provision, item, or application and to this end
6 the provisions of this Act are hereby declared severable.

7 Section 5. This Act shall become effective upon signature by the governor or, if not
8 signed by the governor, upon expiration of the time for bills to become law without signature
9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
11 effective on the day following such approval.

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)]

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 findings.

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; to any entity created pursuant to the Patient Protection and Affordable Care Act (federal health care reform act) of 2010, and to any hospital, health or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type which is regulated by the Dept. of Insurance, including a group insurance plan, and a self-insurance plan, which delivers or issues for delivery policies or contracts for health insurance coverage in this state.

Proposed law requires that on or after its effective date, 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.

Proposed law provides that its provisions shall be severable.

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

(Adds R.S. 22:1016)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Insurance to the original bill.

1. Deleted portions of legislative findings.
2. Clarified that proposed law applies only to health insurance contracts that are regulated by the Dept. of Insurance.
3. Clarified that the provisions of proposed law are severable.