

## Chapter 5

H.B. No. 214

### AN ACT

relating to health plan and health benefit plan coverage for elective abortion.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 8, Insurance Code, is amended by adding Subtitle M to read as follows:

#### SUBTITLE M. FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT

##### CHAPTER 1695. LEGISLATIVE CONSIDERATIONS

Sec. 1695.001. 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 1696. COVERAGE FOR ELECTIVE ABORTION; PROHIBITIONS AND REQUIREMENTS

Sec. 1696.001. DEFINITIONS. In this chapter:

(1) "Elective abortion" means an abortion, as defined by Section 245.002, Health and Safety Code, other than an abortion performed due to a medical emergency as defined 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)).



1 under Chapter 842;

2 (3) a fraternal benefit society operating under  
3 Chapter 885;

4 (4) a stipulated premium company operating under  
5 Chapter 884;

6 (5) an exchange operating under Chapter 942;

7 (6) a health maintenance organization operating under  
8 Chapter 843;

9 (7) a multiple employer welfare arrangement that holds  
10 a certificate of authority under Chapter 846; or

11 (8) an approved nonprofit health corporation that  
12 holds a certificate of authority under Chapter 844.

13 (b) This chapter applies to group health coverage made  
14 available by a school district in accordance with Section 22.004,  
15 Education Code.

16 (c) Notwithstanding any provision in Chapter 1551, 1575,  
17 1579, or 1601 or any other law, this chapter applies to:

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

19 (2) a basic plan under Chapter 1575;

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

21 and

22 (4) basic coverage under Chapter 1601.

23 (d) Notwithstanding Section 1501.251 or any other law, this  
24 chapter applies to coverage under a small or large employer health  
25 benefit plan subject to Chapter 1501.

26 (e) Notwithstanding Section 1507.003 or 1507.053 or any  
27 other law, this chapter applies to a standard health benefit plan

1 provided under Chapter 1507.

2 Sec. 1218.003. CERTAIN COVERAGE NOT AFFECTED. This chapter  
3 does not apply to health benefit plan coverage provided to an  
4 enrollee for any abortion other than an elective abortion as  
5 defined by Section 1218.001.

6 Sec. 1218.004. COVERAGE BY HEALTH BENEFIT PLAN. A health  
7 benefit plan may provide coverage for elective abortion only if:

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

11 (2) the enrollee pays the premium for coverage for  
12 elective abortion separately from, and in addition to, the premium  
13 for other health benefit plan coverage, if any; and

14 (3) the enrollee provides a signature for coverage for  
15 elective abortion, separately and distinct from the signature  
16 required for other health benefit plan coverage, if any, provided  
17 to the enrollee by the health benefit plan issuer.

18 Sec. 1218.005. CALCULATION OF PREMIUM. (a) A health  
19 benefit plan issuer that provides coverage for elective abortion  
20 shall calculate the premium for the coverage so that the premium  
21 fully covers the estimated cost of elective abortion per enrollee,  
22 determined on an actuarial basis.

23 (b) In calculating a premium under Subsection (a), the  
24 health benefit plan issuer may not take into account any cost  
25 savings in other health benefit plan coverage offered by the health  
26 benefit plan issuer that is estimated to result from coverage for  
27 elective abortion.

1        (c) A health benefit plan issuer may not provide a premium  
2 discount to or reduce the premium for an enrollee for other health  
3 benefit plan coverage on the basis that the enrollee has coverage  
4 for elective abortion.

5        Sec. 1218.006. NOTICE BY ISSUER. A health benefit plan  
6 issuer that provides coverage for elective abortion shall at the  
7 time of enrollment in other health benefit plan coverage provide  
8 each enrollee with a notice that:

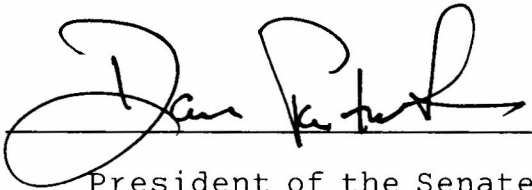
9                (1) coverage for elective abortion is optional and  
10 separate from other health benefit plan coverage offered by the  
11 health benefit plan issuer;

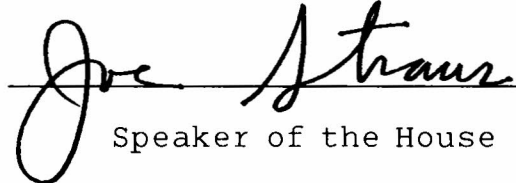
12                (2) the premium cost for coverage for elective  
13 abortion is a premium paid separately from, and in addition to, the  
14 premium for other health benefit plan coverage offered by the  
15 health benefit plan issuer; and

16                (3) the enrollee may enroll in a health benefit plan  
17 without obtaining coverage for elective abortion.

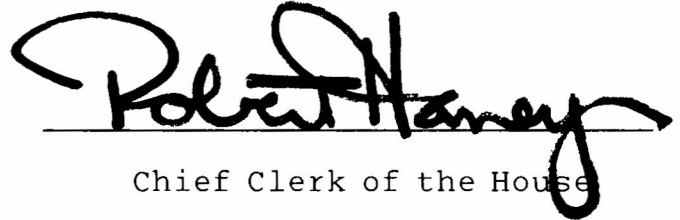
18        SECTION 3. This Act applies only to a qualified health plan  
19 offered through a health benefit exchange or a health benefit plan  
20 that is delivered, issued for delivery, or renewed on or after April  
21 1, 2018. A qualified health plan offered through a health benefit  
22 exchange or a health benefit plan that is delivered, issued for  
23 delivery, or renewed before April 1, 2018, is governed by the law as  
24 it existed immediately before the effective date of this Act, and  
25 that law is continued in effect for that purpose.

26        SECTION 4. This Act takes effect December 1, 2017.

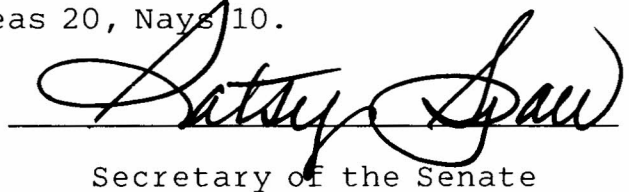
  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 214 was passed by the House on August 9, 2017, by the following vote: Yeas 92, Nays 46, 2 present, not voting.

  
\_\_\_\_\_  
Chief Clerk of the House


I certify that H.B. No. 214 was passed by the Senate on August 13, 2017, by the following vote: Yeas 20, Nays 10.

  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 8-15-2017  
Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4pm O'CLOCK

AUG 15 2017  
  
\_\_\_\_\_  
Secretary of State

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017**

**August 9, 2017**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB214** by Smithee (Relating to health plan and health benefit plan coverage for elective abortion.), **As Engrossed**

<b>No significant fiscal implication to the State is anticipated.</b>
---

The bill would amend various statutory provisions relating to health plan and health benefit plan coverage for abortions, including qualified health plans offered through a health benefit exchange.

Based on information provided by the Texas Department of Insurance (TDI), Texas A&M University System Administration, The University of Texas System Administration, Employees Retirement System, Teacher Retirement System, and the Health and Human Services Commission, it is assumed that any costs associated with the implementation of the bill would be absorbed within existing agency resources. Based on information provided by TDI, the bill could result in a slight increase of form filing revenues deposited to the General Revenue-Dedicated Texas Department of Insurance Fund 36 (GR-D Fund 36). Since GR-D Fund 36 is a self-leveling account, this analysis also assumes that any additional revenue resulting from the implementation of the bill would accumulate in account fund balances and that TDI would adjust the assessment of the maintenance tax or other fees accordingly in the following years.

The bill would go into effect on December 1, 2017 and would apply to health insurance plans issued on or after April 1, 2018.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 454 Department of Insurance, 720 The University of Texas System Administration, 529 Health and Human Services Commission, 323 Teacher Retirement System, 327 Employees Retirement System, 710 Texas A&M University System Administrative and General Offices

**LBB Staff:** UP, AG, CL, SK, CG, KFa, ER, JGA

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATURE 1st CALLED SESSION - 2017**

**July 25, 2017**

**TO:** Honorable Byron Cook, Chair, House Committee on State Affairs

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB214** by Smithee (Relating to health plan and health benefit plan coverage for elective abortion.), **As Introduced**

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