

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

**Introduced by Senators Emmons, Van Regenmorter, McManus, Goschka, Shugars, Hammerstrom, Gougeon,
Miller, McCotter, Rogers, Sikkema, Hart, Dunaskiss, Schuette, Stille, Jaye, North and Bennett**

ENROLLED SENATE BILL No. 794

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding sections 16240 and 20195.

The People of the State of Michigan enact:

Sec. 16240. (1) As used in this section, "elective abortion" means 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. Elective abortion does not include either of the following:

(a) The prescription of or use of a drug or device intended as a contraceptive.

(b) 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.

(2) A licensee or registrant shall not seek or accept reimbursement from an insurer, health maintenance organization, or health care corporation for any services provided that are directly related to the performance of an elective abortion unless the reimbursement sought or accepted is from an optional rider provided under any of the following:

(a) Section 3407c of the insurance code of 1956, 1956 PA 218, MCL 500.3407c.

(b) Section 402d of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1402d.

(3) This section shall not be construed to affect legitimate and routine obstetric care, diagnostic testing, or other nonabortion procedures.

(4) In addition to the administrative penalties prescribed in sections 16221(g) and 16226, a licensee or registrant who violates this section is liable for a civil fine of up to \$10,000.00 per violation. The department shall investigate an alleged

violation of this section and the attorney general, in cooperation with the department, may bring an action to enforce this section.

(5) Nothing in this section restricts the right of a licensee or registrant to discuss abortion or abortion services with a patient who is pregnant.

(6) This section does not create a right to an abortion.

(7) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

Sec. 20195. (1) As used in this section, "elective abortion" means 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. Elective abortion does not include either of the following:

(a) The prescription of or use of a drug or device intended as a contraceptive.

(b) 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.

(2) A health facility or agency shall not seek or accept reimbursement from an insurer, health maintenance organization, or health care corporation for any services provided that are directly related to the performance of an elective abortion unless the reimbursement sought or accepted is from an optional rider provided under any of the following:

(a) Section 3407c of the insurance code of 1956, 1956 PA 218, MCL 500.3407c.

(b) Section 402d of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1402d.

(3) This section shall not be construed to affect legitimate and routine obstetric care, diagnostic testing, or other nonabortion procedures.

(4) A health facility or agency that violates this section is liable for a civil fine of up to \$10,000.00 per violation. The department shall investigate an alleged violation of this section and the attorney general, in cooperation with the department, may bring an action to enforce this section.

(5) Nothing in this section restricts the right of a health care professional or other health facility or agency employee to discuss abortion or abortion services with a patient who is pregnant.

(6) This section does not create a right to an abortion.

(7) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

Enacting section 1. This amendatory act takes effect July 1, 2001 and only applies to a licensee or registrant when seeking or accepting reimbursement from an insurer, health maintenance organization, or health care corporation under a policy, certificate, or contract issued or renewed on or after July 1, 2001.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved

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Governor.