

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 3290

By: McNiell, Reynolds, Kern,
Ownbey, Faught and
(Pittman) of the House

6 and

7 Sykes of the Senate

8
9
10 COMMITTEE SUBSTITUTE

11 An Act related to abortions; clarifying scope of act;
12 prohibiting certain coverage; providing for
13 exceptions; defining term; providing for the
14 provision of certain coverage; prohibiting certain
15 discount; requiring certain entities to provide an
16 option to choose or reject certain coverage;
17 repealing Section 12, Chapter 161, O.S.L. 2007 (63
18 O.S. Supp. 2009, Section 1-741.2, which relates to
19 coverage for abortions; providing for codification;
20 and declaring an emergency

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-741.3 of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

A. Pursuant to Section 1303(a)(1), as amended by Section
10104(c) of the Patient Protection and Affordable Care Act, P.L.
111-148, all qualified health plans offered through the state

1 Exchange are prohibited from including elective abortion coverage.
2 Nothing in this section shall be construed as preventing anyone from
3 purchasing optional supplemental coverage for elective abortions for
4 which there must be paid a separate premium in accordance with
5 subsection D of this act in the health insurance market outside of
6 the state Exchange.

7 B. No health plan, including health insurance contracts, plans
8 or policies, offered outside of the state Exchange, but within the
9 state, shall provide coverage for elective abortions except by
10 optional separate supplemental coverage for abortion for which there
11 must be paid a separate premium in accordance with subsection D of
12 this act.

13 C. For purposes of this section, an "elective abortion" means
14 an abortion for any reason other than any of the following:

15 1. An abortion to prevent the death of the mother; provided,
16 however, that an abortion may not be deemed one to prevent the death
17 of the mother based on a claim or diagnosis that she will engage in
18 conduct which will result in her death;

19 2. An abortion when the pregnancy is the result of rape as
20 specified in paragraphs 2, 3, 4, 5, 6 and 7 of subsection A and
21 subsection B of Section 1111 of Title 21 of the Oklahoma Statutes,
22 and the incident is reported within forty-eight (48) hours after the
23 incident occurs to a valid law enforcement agency for investigation;
24 provided, however, if the victim is physically unable to report the

1 rape during any portion of that forty-eight (48) hours, the incident
2 shall be reported within forty-eight (48) hours after the victim
3 becomes physically able to report the rape; or

4 3. The pregnancy is the result of incest, as specified in
5 Section 885 of Title 21 of the Oklahoma Statutes, in which the
6 mother is a minor and the incident and relative are reported to a
7 valid law enforcement agency prior to the abortion.

8 D. The issuer of any health plan providing elective abortion
9 coverage shall:

10 1. Calculate the premium for such coverage so that it fully
11 covers the estimated cost of covering elective abortions per
12 enrollee as determined on an average actuarial basis. In
13 calculating such premium, the issuer of the plan shall not take into
14 account any cost reduction in any health plan covering an enrollee
15 estimated to result from the provision of abortion coverage,
16 including prenatal care, delivery or postnatal care;

17 2. If the enrollee is enrolling in a health plan providing any
18 other coverage at the same time as the enrollee is enrolling in a
19 plan providing elective abortion coverage, require a separate
20 signature, distinct from that to enroll in the health plan providing
21 other coverage, in order to enroll in the separate supplemental plan
22 providing elective abortion coverage;

23 3. Provide a notice to enrollees at the time of enrollment
24 that:

- 1 a. specifically states the cost of the separate premium
2 for coverage of elective abortions distinct and apart
3 from the cost of the premium for any health plan
4 providing any other coverage in any health plan
5 covering an enrollee,
- 6 b. states that enrollment in elective abortion coverage
7 is optional, and
- 8 c. if the enrollee is enrolling in a health plan
9 providing any other coverage at the same time as the
10 enrollee is enrolling in a plan providing elective
11 abortion coverage, states that the enrollee may choose
12 to enroll in the plan providing other coverage without
13 enrolling in the plan providing elective abortion
14 coverage.

15 E. The issuer of any health plan providing any coverage other
16 than elective abortion shall not discount or reduce the premium for
17 such coverage on the basis that an enrollee has elective abortion
18 coverage.

19 F. Any employer who offers employees a health plan providing
20 elective abortion coverage shall, at the time of beginning
21 employment and at least once in each calendar year thereafter,
22 provide each employee the option to choose or reject elective
23 abortion coverage.

1 G. Any entity offering a group health plan providing elective
2 abortion coverage, other than employers offering such a plan to
3 their employees, shall, at the time each group member begins such
4 coverage and at least once in each calendar year thereafter, provide
5 each group member the option to choose or reject elective abortion
6 coverage.

7 H. Nothing in this section shall be construed to apply in
8 circumstances in which federal law preempts state health insurance
9 regulation.

10 SECTION 2. REPEALER Section 12, Chapter 161, O.S.L. 2007
11 (63 O.S. Supp. 2009, Section 1-741.2), is hereby repealed.

12 SECTION 3. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

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