

**H. B. 2440**

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(By Delegates Frich, Householder, Arvon, Ellington, Butler,  
Rohrbach, Sobonya, Waxman, Westfall, Kurcaba and Shott)

[Introduced January 27, 2015; referred to the

Committee on Health and Human Resources then the Judiciary.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
11 designated §9-2-11a, relating to preventing taxpayer subsidization of health insurance  
12 covering elective abortions; prohibiting all qualified health plans offered through a state  
13 exchange from including abortion coverage except to prevent the death of the mother; and  
14 preventing all other health plans, including health insurance contracts, plans or policies,  
15 offered outside of the exchange, but within the state, from providing coverage for elective  
16 abortions except by optional separate supplemental coverage for abortion.

17 *Be it enacted by the Legislature of West Virginia:*

18 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
19 section, designated §9-2-11a, to read as follows:

20 **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND**  
21 **RESPONSIBILITIES GENERALLY.**

22 **§9-2-11a. Preventing taxpayer subsidization of health insurance covering elective abortions;**  
23 **abortion coverage only offered through supplemental policies.**

24 (a) Pursuant to the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148,

1 all qualified health plans offered through an exchange established in the state are prohibited from  
2 including elective abortion coverage. Nothing in this section prevents anyone from purchasing  
3 optional supplemental coverage for elective abortions for which there is paid a separate premium in  
4 accordance with subsection (d) of this section in the health insurance market outside of the exchange.

5 (b) No health plan, including health insurance contracts, plans or policies, offered outside an  
6 exchange but within the state, may provide coverage for elective abortions except by optional  
7 separate supplemental coverage for abortion for which there is paid a separate premium in  
8 accordance with subsection (d) of this section.

9 (c) For purposes of this section, an "elective abortion" means an abortion for any reason  
10 other than to prevent the death of the mother: *Provided*, That an abortion is not one to prevent the  
11 death of the mother based on a claim or diagnosis that she will engage in conduct that will result in  
12 her death.

13 (d) The issuer of any health plan providing elective abortion coverage:

14 (1) Shall calculate the premium for coverage so that it fully covers the estimated cost of  
15 covering elective abortions, per enrollee, determined on an average actuarial basis, and the issuer of  
16 the plan may not take into account any cost reduction in a health plan covering an enrollee estimated  
17 to result from the provision of abortion coverage, including prenatal care, delivery, or postnatal care;

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

22 (3) Shall provide a notice to enrollees, at the time of enrollment, that:

1       (A) Specifically states the cost of the separate premium for coverage of elective abortions,  
2 distinct and apart from the cost of the premium for a health plan providing other coverage and this  
3 cost shall be agreed with a separate signature;

4       (B) States that enrollment in elective abortion coverage is optional; and

5       (C) If the enrollee is enrolling in a health plan providing other coverage at the same time the  
6 enrollee is enrolling in a plan providing elective abortion coverage, states that the enrollee may  
7 choose to enroll in the plan providing other coverage without enrolling in the plan providing elective  
8 abortion coverage.

9       (e) The issuer of a health plan providing coverage other than elective abortion shall not  
10 discount or reduce the premium for such coverage on the basis that an enrollee has elective abortion  
11 coverage.

12       (f) Any employer who offers employees a health plan providing elective abortion coverage  
13 shall, at the time of beginning employment and at least once in each calendar year thereafter, provide  
14 each employee the option to choose or reject the separate supplemental elective abortion coverage,  
15 verified yearly with a separate signature.

16       (g) Any entity offering a group health plan providing separate supplemental elective abortion  
17 coverage, other than employers offering such a plan to their employees, shall, at the time each group  
18 member begins coverage and at least once in each calendar year thereafter, provide each group  
19 member the option to choose or reject the separate supplemental elective abortion coverage.

20       (h) Nothing in this section applies in circumstances in which federal law preempts state  
21 health insurance regulation.

22       (i) No funds from the Medicaid program account may be expended for an abortion or for any

1 related expenses except to the extent required by federal law or necessary for continued participation  
2 in a federal program.

3 (j) If any one or more provision, section, subsection, sentence, clause, phrase or word of this  
4 section or the application thereof to any person or circumstance is found to be unconstitutional, the  
5 same is hereby declared to be severable and the balance of this section remains effective  
6 notwithstanding such unconstitutionality. The Legislature hereby declares that it would have passed  
7 this section, and each provision, section, subsection, sentence, clause, phrase or word thereof,  
8 irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase,  
9 or word be declared unconstitutional.

NOTE: The purpose of this bill is to limit health insurance coverage for elective abortions to coverage provided through supplemental policies.

This section is new; therefore, it has been completely underscored.