

SUBJECT: Prohibiting abortions coverage under certain health insurance plans

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 7 ayes — Cook, Craddick, Farney, Geren, Harless, Huberty, Kuempel
1 nay — Oliveira
5 absent — Giddings, Farrar, Minjarez, Smithee, Sylvester Turner

SENATE VOTE: On final passage, May 6 — 21-10 (Ellis, Garcia, Hinojosa, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: No public hearing

BACKGROUND: A qualified health plan under the federal Affordable Care Act (ACA) is a health insurance plan that provides federally required essential health benefits, that follows federally established limits on cost-sharing (such as deductibles, copayments, and out-of-pocket maximum amounts), and that was certified by a health benefit exchange. Qualified health plans are offered in Texas by many insurance companies, such as Aetna, Blue Cross and Blue Shield, Cigna, Humana, and United. Qualified health plans are made available to consumers in Texas through a federal health benefit exchange, also known as a health insurance marketplace.

42 U.S. Code sec. 18023 under federal law provides that a state may elect to prohibit abortion coverage in qualified health plans offered through an exchange in the state if the state enacts a law to provide for such a prohibition.

Health and Safety Code, ch. 171 governs abortion, which it defines to mean the use of any means to terminate the pregnancy of a female known by the attending physician to be pregnant with the intention that the termination of the pregnancy by those means will, with reasonable likelihood, cause the death of the fetus. Sec. 171.002 defines the term “medical emergency” to mean a life-threatening physical condition

aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

DIGEST:

CSSB 575 would prohibit certain health care plans from providing coverage for abortion other than in a medical emergency. The bill would not authorize coverage for an abortion based on a potential future medical condition that could result from a voluntary act of the enrollee. A person would not be prevented from purchasing optional or supplemental coverage for abortions under a health benefit plan other than a qualified health plan offered through a health benefit exchange.

The bill would define “abortion” and “medical emergency” as specified in Health and Safety Code, sec. 171.002.

Affected plans. A qualified health plan offered through an Affordable Care Act (ACA) health benefit exchange would be prohibited from providing coverage for an abortion other than in a medical emergency.

The bill also would restrict abortion coverage for certain state employee health plans, including:

- group health coverage made available by a school district;
- a basic coverage plan under the Texas Employees Group Benefits Act;
- a basic coverage plan under the Texas Public School Employees Group Benefits Program;
- a primary care coverage plan under the Texas School Employees Uniform Group Health Coverage Act; and
- basic coverage under the Uniform Insurance Benefits Act for employees of the University of Texas and Texas A&M systems.

State employee plans specified in the bill could provide coverage for abortion only if:

- the coverage was provided to an enrollee separate from other health benefit plan coverage offered by the issuer;
- an enrollee paid a separate premium for abortion coverage in addition to the premium for other health benefit plan coverage;
- an enrollee provided a signature for coverage for abortion, separately and distinct from the signature required for other health benefit plan coverage offered by the issuer; or
- the coverage provided benefits for abortion due to a medical emergency.

Calculating premiums. For state employee health plans, the bill would specify that a health benefit plan issuer that provided coverage for abortion would calculate an enrollee's premium so that the premium would fully cover the estimated cost of abortion per enrollee, determined on an average actuarial basis.

When calculating the premium, an issuer could not take into account any cost savings in other health benefit plan coverage that was estimated to result from coverage for abortion, including costs associated with prenatal care, delivery, or postnatal care.

A health benefit plan issuer that provided coverage other than coverage for abortion could not discount an enrollee's premium or reduce an enrollee's premium on the basis that the enrollee had health benefit plan coverage for abortion.

Notice. The bill also would require a health benefit plan issuer that provided certain state employees coverage for abortion, at the time of enrollment for the plan, to provide each enrollee with notice that:

- coverage for abortion was optional and separate from other health benefit plan coverage offered by the health benefit plan issuer;
- the premium cost for coverage for abortion was a premium paid separately from and in addition to the premium for other health benefit plan coverage offered by the issuer;
- the enrollee could enroll in a health benefit plan that provided

coverage other than abortion coverage without obtaining coverage for abortion.

Supplemental coverage. For an employer or entity that offered a health benefit plan with abortion coverage for certain state employees, the bill would require the employer or entity to provide each employee or group member with an opportunity to accept or reject supplemental coverage for abortion at the following times:

- at the beginning of employment or when the group member's coverage began, as applicable; and
- at least one time per calendar year after the first year of employment or group coverage.

The changes would apply only to a health benefit plan specified by the bill that was delivered, issued for delivery, or renewed on or after January 1, 2016.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSSB 575 would allow Texans to choose not to pay for health insurance coverage for abortions or to choose to pay for abortion coverage. Federal law allows states to opt out of paying for abortions under the federal health insurance exchange, which more than 20 states already have done.

Many Texans do not want to pay for abortion coverage as part of their basic health insurance plan for moral or other reasons. The bill would help ensure that Texans were not paying for health insurance coverage that they did not want or need.

The bill would allow for qualified health plans under the Affordable Care Act (ACA) to cover elective abortions only in the case of a medical emergency, as currently defined in the Health and Safety Code. This provision would help ensure that women had coverage to terminate a pregnancy that was life-threatening and in certain other situations.

The bill would not ban elective abortions. Texans could choose to carry a supplemental insurance plan for abortion coverage, if needed, or they could choose a private insurance plan that provided that coverage. The premium cost of a supplemental insurance plan would be minimal, as such plans usually provide a benefit of up to \$500.

The bill would use the definition of a “medical emergency” that already exists in statute. It would not create a new definition, but would consistently apply the existing definition across all ACA health insurance plans.

**OPPONENTS
SAY:**

CSSB 575 would create situations where a woman did not have insurance coverage if she and her doctor determined it was necessary to terminate a wanted, planned pregnancy. These situations could occur due to a woman’s diagnosis with cancer or the development of a serious fetal abnormality that would not clearly meet the definition of a “medical emergency” under state law.

The bill would not include an exception for insurance to cover abortion in the case of rape or incest. In these situations, a woman may not have planned to have an abortion and may not have thought she would need supplemental abortion insurance, which is one reason why abortion coverage should not be excluded from basic health insurance plans.

The bill would single out abortion for exclusion from coverage under ACA health insurance plans, when nationally, most private insurance plans cover abortion care. This would be discriminatory and harmful to women’s health. The bill also would single out middle-class working women who make up a large proportion of those who purchase health insurance through the federal health insurance exchange. It would allow only those who could afford private health insurance to have the option of abortion coverage as part of their basic health insurance plan.

NOTES:

The committee substitute differs from the engrossed Senate version of the bill in that the Senate engrossed version would specify additional types of health benefit plans to which the bill would apply.