

# HOUSE BILL No. 5939

May 25, 2004, Introduced by Reps. Ehardt, Brandenburg, Drolet, Rocca, Kooiman, Caul, Stahl, Bradstreet, Hart, Vander Veen, DeRoche, Hummel, Hager, Sheen, Milosch, Shackleton, Huizenga, Palsrok, Tabor, Robertson, Wenke, Shaffer, Casperson, Hoogendyk, Farhat, Koetje, O'Neil, Sheltroun, Rivet, Spade and Richardville and referred to the Committee on Insurance.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
(MCL 333.1101 to 333.25211) by adding sections 16240 and 20195.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 16240. (1) As used in this section, "elective  
2 abortion" means the intentional use of an instrument, drug, or  
3 other substance or device to terminate a woman's pregnancy for a  
4 purpose other than to increase the probability of a live birth,  
5 to preserve the life or health of the child after live birth, or  
6 to remove a dead fetus. Elective abortion does not include  
7 either of the following:

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

10           (b) The intentional use of an instrument, drug, or other  
11 substance or device by a physician to terminate a woman's

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1 pregnancy if the woman's physical condition, in the physician's  
2 reasonable medical judgment, necessitates the termination of the  
3 woman's pregnancy to avert her death.

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

10 (a) Section 3407c of the insurance code of 1956, 1956 PA  
11 218, MCL 500.3407c.

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

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

17 (4) In addition to the administrative penalties prescribed  
18 in sections 16221 and 16226, a licensee or registrant who  
19 violates this section is liable for a civil fine of up to  
20 \$10,000.00 per violation. The department shall investigate an  
21 alleged violation of this section and the attorney general, in  
22 cooperation with the department, may bring an action to enforce  
23 this section.

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

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

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

3 Sec. 20195. (1) As used in this section, "elective  
4 abortion" means the intentional use of an instrument, drug, or  
5 other substance or device to terminate a woman's pregnancy for a  
6 purpose other than to increase the probability of a live birth,  
7 to preserve the life or health of the child after live birth, or  
8 to remove a dead fetus. Elective abortion does not include  
9 either of the following:

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

12 (b) The intentional use of an instrument, drug, or other  
13 substance or device by a physician to terminate a woman's  
14 pregnancy if the woman's physical condition, in the physician's  
15 reasonable medical judgment, necessitates the termination of the  
16 woman's pregnancy to avert her death.

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

23 (a) Section 3407c of the insurance code of 1956, 1956 PA  
24 218, MCL 500.3407c.

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

27 (3) This section shall not be construed to affect legitimate

1 and routine obstetric care, diagnostic testing, or other  
2 nonabortion procedures.

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

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

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

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

15 Enacting section 1. This amendatory act takes effect  
16 January 1, 2005.

17 Enacting section 2. This amendatory act does not take  
18 effect unless all of the following bills of the 92nd Legislature  
19 are enacted into law:

20 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5940 (request  
21 no. 02716'03).

22 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5941 (request  
23 no. 02717'03).