

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 794**

(As Passed the Senate December 7, 2000)

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 REIM-
5 BURSEMENT FROM AN INSURER, HEALTH MAINTENANCE ORGANIZATION, OR
6 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 ANY 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 NONABOR-
16 TION PROCEDURES.

17 (4) IN ADDITION TO THE ADMINISTRATIVE PENALTIES PRESCRIBED
18 IN SECTIONS 16221(G) AND 16226, A LICENSEE OR REGISTRANT WHO VIO-
19 LATES THIS SECTION IS LIABLE FOR A CIVIL FINE OF UP TO \$10,000.00
20 PER VIOLATION. THE DEPARTMENT SHALL INVESTIGATE AN ALLEGED VIO-
21 LATION OF THIS SECTION AND THE ATTORNEY GENERAL, IN COOPERATION
22 WITH THE DEPARTMENT, MAY BRING AN ACTION TO ENFORCE THIS
23 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.

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1 (6) THIS SECTION DOES NOT CREATE A RIGHT TO AN ABORTION.

2 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
3 PERSON SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.

4 SEC. 20195. (1) AS USED IN THIS SECTION, "ELECTIVE
5 ABORTION" MEANS THE INTENTIONAL USE OF AN INSTRUMENT, DRUG, OR
6 OTHER SUBSTANCE OR DEVICE TO TERMINATE A WOMAN'S PREGNANCY FOR A
7 PURPOSE OTHER THAN TO INCREASE THE PROBABILITY OF A LIVE BIRTH,
8 TO PRESERVE THE LIFE OR HEALTH OF THE CHILD AFTER LIVE BIRTH, OR
9 TO REMOVE A DEAD FETUS. ELECTIVE ABORTION DOES NOT INCLUDE
10 EITHER OF THE FOLLOWING:

11 (A) THE PRESCRIPTION OF OR USE OF A DRUG OR DEVICE INTENDED
12 AS A CONTRACEPTIVE.

13 (B) THE INTENTIONAL USE OF AN INSTRUMENT, DRUG, OR OTHER
14 SUBSTANCE OR DEVICE BY A PHYSICIAN TO TERMINATE A WOMAN'S PREG-
15 NANCY IF THE WOMAN'S PHYSICAL CONDITION, IN THE PHYSICIAN'S REA-
16 SONABLE MEDICAL JUDGMENT, NECESSITATES THE TERMINATION OF THE
17 WOMAN'S PREGNANCY TO AVERT HER DEATH.

18 (2) A HEALTH FACILITY OR AGENCY SHALL NOT SEEK OR ACCEPT
19 REIMBURSEMENT FROM AN INSURER, HEALTH MAINTENANCE ORGANIZATION,
20 OR HEALTH CARE CORPORATION FOR ANY SERVICES PROVIDED THAT ARE
21 DIRECTLY RELATED TO THE PERFORMANCE OF AN ELECTIVE ABORTION
22 UNLESS THE REIMBURSEMENT SOUGHT OR ACCEPTED IS FROM AN OPTIONAL
23 RIDER PROVIDED UNDER ANY OF THE FOLLOWING:

24 (A) SECTION 3407C OF THE INSURANCE CODE OF 1956, 1956 PA
25 218, MCL 500.3407C.

26 (B) SECTION 402D OF THE NONPROFIT HEALTH CARE CORPORATION
27 REFORM ACT, 1980 PA 350, MCL 550.1402D.

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1 (3) THIS SECTION SHALL NOT BE CONSTRUED TO AFFECT LEGITIMATE
2 AND ROUTINE OBSTETRIC CARE, DIAGNOSTIC TESTING, OR OTHER NONABOR-
3 TION PROCEDURES.

4 (4) A HEALTH FACILITY OR AGENCY THAT VIOLATES THIS SECTION
5 IS LIABLE FOR A CIVIL FINE OF UP TO \$10,000.00 PER VIOLATION.
6 THE DEPARTMENT SHALL INVESTIGATE AN ALLEGED VIOLATION OF THIS
7 SECTION AND THE ATTORNEY GENERAL, IN COOPERATION WITH THE DEPART-
8 MENT, MAY BRING AN ACTION TO ENFORCE THIS SECTION.

9 (5) NOTHING IN THIS SECTION RESTRICTS THE RIGHT OF A HEALTH
10 CARE PROFESSIONAL OR OTHER HEALTH FACILITY OR AGENCY EMPLOYEE TO
11 DISCUSS ABORTION OR ABORTION SERVICES WITH A PATIENT WHO IS
12 PREGNANT.

13 (6) THIS SECTION DOES NOT CREATE A RIGHT TO AN ABORTION.

14 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
15 PERSON SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.

16 Enacting section 1. This amendatory act takes effect July
17 1, 2001 and only applies to a licensee or registrant when seeking
18 or accepting reimbursement from an insurer, health maintenance
19 organization, or health care corporation under a policy, certifi-
20 cate, or contract issued or renewed on or after July 1, 2001.