

H. B. 4471

(By Delegates Reynolds, Arvon, Cowles,
Eldridge, Moye, Perry, Pino, Rowan,
P. Smith, Sobonya and Sumner)

[Introduced February 11, 2014; referred to the
Committee on Health and Human Resources then the
Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §9-2-11a, relating to
limiting health insurance coverage for elective abortions to
coverage provided through supplemental policies; and elective
abortion exceptions.

Be it enacted by the Legislature of West Virginia:

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

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

**§9-2-11a. Elective abortion coverage only offered through
supplemental policies; exceptions.**

(a) Pursuant to the federal Patient Protection and Affordable
Care Act, Pub. L. No. 111-148, all qualified health plans offered

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

7 (b) For purposes of this section, an "elective abortion"
8 means an abortion for any reason other than any of the following:

9 (1) An abortion to prevent the death of the mother: *Provided,*
10 That an abortion is not one to prevent the death of the mother
11 based on a claim or diagnosis that she will engage in conduct that
12 will result in her death;

13 (2) An abortion when the pregnancy is the result of criminal
14 sexual misconduct as defined in sections three, four and five (a)
15 (1), article eight-b, chapter sixty-one of this code, and the
16 incident is reported within forty-eight hours after the incident
17 occurs to a valid law-enforcement agency for investigation:
18 *Provided,* That if the victim is physically unable to report the
19 criminal sexual misconduct during any portion of that forty-eight
20 hours, the incident must be reported within forty-eight hours after
21 the victim becomes physically able to report the criminal sexual
22 misconduct; or

23 (3) The pregnancy is the result of incest, as set forth in
24 section five, article eight-d, chapter sixty-one of this code, in

1 which the mother is a minor, and the incident and perpetrator are
2 reported to a valid law-enforcement agency prior to the abortion.

3 (c) The issuer of any health plan providing elective abortion
4 coverage:

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

12 (2) If the enrollee is enrolling in a health plan providing
13 other coverage at the same time as the enrollee is enrolling in a
14 plan providing elective abortion coverage, shall require a separate
15 signature, distinct from that to enroll in the health plan
16 providing other coverage, in order to enroll in the separate
17 supplemental plan providing elective abortion coverage.

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

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

24 (B) States that enrollment in elective abortion coverage is

1 optional; and

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

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

11 (e) Nothing in this section applies in circumstances in which
12 federal law preempts state health insurance regulation.

NOTE: The purpose of this bill is to limit health insurance coverage for elective abortions to coverage provided through supplemental policies. Elective abortion exceptions are provided for certain pregnancies that threaten the life of the mother or result from rape or incest.

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