

1                                   **Senate Bill No. 496**

2            (By Senators Cann, D. Hall, Prezioso, Carmichael, Cookman,  
3                                   Jenkins, Green and Barnes)

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5            [Introduced February 5, 2014; referred to the Committee on  
6 Banking and Insurance; then to the Committee on the Judiciary.]

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

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

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

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

22 **§9-2-11a.    Elective abortion coverage only offered through**

1                   **supplemental policies; exceptions.**

2           (a) Pursuant to the federal Patient Protection and Affordable  
3 Care Act, Pub. L. No. 111-148, all qualified health plans offered  
4 through an exchange established in the state are prohibited from  
5 including elective abortion coverage. Nothing in this section  
6 prevents anyone from purchasing optional supplemental coverage for  
7 elective abortions for which there is paid a separate premium in  
8 accordance with subsection (c) of this section in the health  
9 insurance market outside of the exchange.

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

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

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

1 the victim becomes physically able to report the criminal sexual  
2 misconduct; or

3 (3) The pregnancy is the result of incest, as set forth in  
4 section five, article eight-d, chapter sixty-one of this code, in  
5 which the mother is a minor, and the incident and perpetrator are  
6 reported to a valid law-enforcement agency prior to the abortion.

7 (c) The issuer of any health plan providing elective abortion  
8 coverage:

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

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

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

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

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

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

12 (d) The issuer of a health plan providing coverage other than  
13 elective abortion shall not discount or reduce the premium for such  
14 coverage on the basis that an enrollee has elective abortion  
15 coverage.

16 (e) Nothing in this section applies in circumstances in which  
17 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, strike-throughs and underscoring have been omitted.