

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.109d Services relating to performing abortions; prohibitions.

- (1) The legislature finds that the use of medicaid funds for elective abortions has been clearly rejected by the people of Michigan through Act No. 59 of the Public Acts of 1987, initiated by the citizens under the rights of the people reserved in the Michigan constitution, approved by a majority of this legislature, affirmed by the citizens at large through a statewide referendum, and sustained by the Michigan supreme court.
- (2) In light of evidence that abortion providers, in conjunction with third party payors, may have devised and implemented plans for reimbursing services in violation of the intent of Act No. 59 of the Public Acts of 1987, the legislature finds the enactment of section 109e a necessary clarification of, and enforcement mechanism for, Act No. 59 of the Public Acts of 1987.
- (3) The legislature finds that any practice of separating or unbundling services directly related to the performance of an abortion for the purposes of seeking medicaid reimbursement, with those funds thereby subsidizing in whole or in part the cost of performing an abortion, is an inappropriate use of taxpayer funds in light of Act No. 59 of the Public Acts of 1987.
- (4) Recognizing that certain services related to performing an abortion can also be part of legitimate and routine obstetric care, section 109e should not be construed to affect diagnostic testing or other nonabortion procedures. Only physicians who actually perform abortions, and particularly those who perform abortions but do not provide prenatal care or obstetric services, should view themselves as potentially affected by section 109e. Unacceptable requests for reimbursement include those services which would not have been performed, but for the preparation and performance of a planned or requested abortion.

400.109e Definitions; reimbursement for performance of abortion; prohibition; violation; penalty; enforcement; scope of section.

- (1) As used in this section:
 - (a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.
 - (b) "Health care professional" means an individual licensed or registered under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.
 - (c) "Health facility or agency" means a health facility or agency licensed under article 17 of Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.
- (2) A health care professional or a health facility or agency shall not seek or accept reimbursement for the performance of an abortion knowing that public funds will be or have been used in whole or in part for the reimbursement in violation of section 109a of Act No. 280 of the Public Acts of 1939, being section 400.109a of the Michigan Compiled Laws, as added by Act No. 59 of the Public Acts of 1987.
- (3) A person who violates this section is liable for a civil fine of up to \$10,000.00 per violation. The

department of community health shall investigate an alleged violation of this section and the attorney general, in cooperation with the department of community health, may bring an action to enforce this section.

(4) Nothing in this section restricts the right of a health care professional to discuss abortion or abortion services with a patient who is pregnant.

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

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

History: Add. 1996, Act 124, Eff. Mar. 31, 1997 .

Popular Name: Act 280