



GAE MAGNAFICI

STATE REPRESENTATIVE • 28th ASSEMBLY DISTRICT

Testimony in Favor of AB 34

Good morning Chairman Steffen and members of the Committee on Insurance. Thank you for taking the time to listen to my testimony on Assembly Bill 34, a bipartisan bill that guarantees individuals with preexisting conditions are covered by their insurance.

Throughout my 35 year career as a nurse working in pediatrics, I've seen firsthand the heartbreaking effects of patients losing their insurance coverage due to preexisting conditions. Living with a debilitating illness or disease is stressful enough, but the potential costs associated with the medical treatment make the difficult road to recovery or an everyday life even more daunting. For example, a Remicade infusion, which is given every 4-8 weeks to patients with Crohn's disease, Rheumatoid arthritis, or colitis, can cost over \$10,000 per infusion. Additionally, you can never cure these diseases, only manage or control it, and any delay in treatment can harm a patient's health.

On far too many occasions, I have seen patients cancel their appointments due to a loss of insurance coverage. Often, these cancellations were scheduled treatments of time-sensitive medications such as Remicade. It is never easy seeing a patient deal with serious illnesses, but seeing a patient's health problems compounded by the stress of navigating the insurance process was heartbreaking. I was an advocate for my patients throughout my career, working with social workers and care management to ensure my patients located the appropriate resources to receive the care they needed. Today I continue that advocacy for them by authoring the Preexisting Condition Guaranteed Coverage Act.

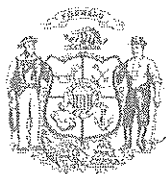


GAE MAGNAFICI

STATE REPRESENTATIVE • 28th ASSEMBLY DISTRICT

Furthermore, this issue is one of the main concerns to the constituents of my district. I've traveled across my district talking to residents of Burnett, Polk, and St. Croix counties. These conversations made one thing abundantly clear: the people of northwestern Wisconsin strongly support ensuring people with preexisting conditions are guaranteed access to health insurance. I've made a promise to the residents of the 28th Assembly District that I would fight to protect preexisting condition coverage.

The Affordable Care Act prohibits health insurers from denying coverage to people due to a preexisting condition. The Preexisting Condition Guaranteed Coverage Act adopts that prohibition at the state level. It ensures Wisconsin residents with preexisting conditions are guaranteed access to health insurance, no matter what the federal government may do to affect the Affordable Care Act. AB 34 guarantees the issuance of health insurance to all who apply for it, and it provides residents of Wisconsin the peace of mind that comes with secure access to health insurance. For that reason, and for my patients, I encourage committee members to support the bi-partisan Preexisting Condition Guaranteed Coverage Act.



ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

Phone: (608) 266-3312

Fax: (608) 282-3541

Sen.Jacque@legis.wi.gov

State Capitol - P.O. Box 7882

Madison, WI 53707-7882

*Testimony before the Assembly Committee on Insurance
State Senator André Jacque
March 2, 2021*

Good morning Chairman Steffen and Committee Members,

Thank you for holding a hearing on our bill, The Pre-Existing Conditions Guarantee Coverage Act.

I've long believed one of the most important things we do in the Legislature is safeguard the well-being of our constituents. This bipartisan bill, which includes the same language that was brought before the Senate in 2017, does just that by guaranteeing insurance companies cannot deny someone on the basis of their pre-existing conditions. While this language is currently codified in federal law, should changes take place at the national level the people of Wisconsin will know they won't be denied stable health coverage thanks to this legislation.

We've all spoken to people about health insurance. Whether it's our friends, family, or constituents, everyone knows someone with a pre-existing condition. People worry about everything from cancer to high risk pregnancies to migraines, and should not be under risk of losing access to life-saving treatment or necessary healthcare just because of challenges that they've already faced.

The strong protections of The Pre-Existing Conditions Guarantee Coverage Act prevent insurance companies from denying someone a policy on the basis of their pre-existing conditions, excluding coverage for treatment of health conditions, or charging higher premiums on the basis of their medical history. Unlike previous iterations of health care legislation, this bill provides the most prescriptive language to ensure all plans provide the protections our citizens deserve.

This bill does not protect or mirror Obamacare as the language does not address caps, individual mandates, or subsidies. Plain and simple, this bill is about protecting people and guaranteeing insurance coverage. No one should be penalized for choosing to advancing in their careers by changing jobs or signing up for coverage for the first time.

Wisconsin is a leader in healthcare quality and passing these strong protections will further aid our efforts as a leader in access in the Midwest and nationwide. As a bi-partisan team, we're making a promise to Wisconsin citizens that their health insurance isn't going anywhere. On behalf of the 35 co-authors, co-sponsors, and myself, I thank you for this opportunity and urge your support of this important legislation.

Wisconsin Association of Health Plans

The Voice of Wisconsin's Community-Based Health Plans

**Testimony Presented to the
Assembly Committee on Insurance
Assembly Bill 34
March 2, 2021**

Chairman Steffen, Members of the Committee, thank you for the opportunity to testify today on Assembly Bill 34.

My name is Tim Lundquist and I am the Director of Government and Public Affairs at the Wisconsin Association of Health Plans. The Association is the voice of 12 Wisconsin community-based health plans that provide high-quality, high-value health care coverage to individuals, businesses, and public programs across the state. Association members comprise seven of the 14 health plans that provide individual market coverage through the federal Exchange in 2021. Many Association members have served customers through the Exchange since it first opened for business in 2014. According to the most recent data from the Office of the Commissioner of Insurance, Association members provide coverage to 80% of individuals and families purchasing Affordable Care Act coverage.

Our member health plans are located right here in Wisconsin, and are proud of their local roots. As a state-based trade association, we work every day on state public policy strategies to expand health insurance coverage, lower health care costs, and build upon the unique strengths of Wisconsin's competitive health insurance market.

Wisconsin policymakers of both parties have committed to ensuring individuals with preexisting conditions continue to have access to health insurance coverage. Wisconsin's community-based health plans share that commitment, and stand ready to work with state officials to ensure that promise is kept.

Assembly Bill 34 is a step in this direction, but members of the committee should be aware that much more work will need to be done in the event the federal Patient Protection and Affordable Care Act no longer preempts state law. Under this scenario, ensuring individuals with preexisting conditions have access to comprehensive, affordable coverage will require more than the rating regulations and guaranteed issue requirements in Assembly Bill 34. It will require significant financial supports to ensure Wisconsin's health insurance market can continue to set premiums that are reasonable and affordable for both the healthy and the sick.

Maintaining a stable, affordable insurance market requires a comprehensive approach. Current law contains several provisions designed to make coverage more affordable, and to encourage broad participation in the market. Advanced premium tax credits and cost sharing reductions provide substantial targeted support to the vast majority of Marketplace enrollees in Wisconsin. Our state-based reinsurance program, known as the Wisconsin Healthcare Stability Plan, also captures additional federal dollars to limit the premium impact of certain high-cost claims, and has directly led to lower premiums and increased insurer participation in the marketplace. Collectively, these supports have helped produce a market that is competitive, stable, and provides high-value coverage to roughly 190,000 individuals across Wisconsin.

Wisconsin's community-based health plans are proud of the coverage they are able to offer their friends and neighbors with preexisting conditions, and stand ready to work with policymakers on these important issues. I am happy to answer any questions you may have.



TO: Members, Assembly Committee on Insurance
FROM: Cathy Mahaffey, CEO, Common Ground Healthcare Cooperative (CGHC)
Melissa Duffy, Government Relations
RE: Pre-existing Condition Protections
DATE: March 2, 2021

Common Ground Healthcare Cooperative (CGHC) supports the passage of legislation that would protect individual market consumers with pre-existing conditions should Supreme Court find the individual mandate unconstitutional and inseverable from the rest of the Affordable Care Act (ACA) in *California v. Texas*. Unfortunately, if that should happen, Assembly Bill 34 (AB 34) does not go far enough to fully protect consumers with pre-existing health conditions for reasons we explain in this memo.

CGHC is a non-profit cooperative that was created by members of the communities we serve to focus on the health insurance needs of individuals and small businesses that are otherwise on their own when purchasing health insurance. The outcome of *California v. Texas* has profound implications for individual market consumers, most of whom are self-employed, early retirees or work for employers that do not offer health benefits. The individual market also provides a refuge for those between jobs, or who cannot work for a time due to illness or injury.

California v. Texas threatens to reverse several provisions of federal law that our individual members rely on to obtain health coverage. Pre-existing condition protections, guaranteed issue of coverage, nondiscriminatory rating practices and no annual or lifetime limits on coverage are four of those protections, and those would be codified in state law should AB 34 be enacted.

However, AB 34 does not address a significant gap that would open should the Supreme Court rule against the ACA in its entirety, because with the ACA goes tax credits that currently make individual health insurance with pre-existing condition protections affordable.

What Would Happen to Consumers if the Entire ACA is Ruled Unconstitutional?

There are numerous possibilities for the outcome of the Supreme Court decision, but a lower court ruling that led to the Supreme Court's consideration of *California v. Texas* found that the individual mandate is unconstitutional and inseverable from rest of the ACA. Should the Supreme Court agree with that ruling, the implications would be devastating for individual market consumers.

The single most important element of the ACA that protects consumers with pre-existing conditions (and currently preserves the individual market) is the federal Advanced Premium Tax Credits (APTCs) that make health insurance affordable for many consumers. AB 34 does not address this gap. Tax credits are critical to keeping the risk pool viable by making insurance more affordable for everyone, including those that are healthy.

Should APTCs end, Wisconsin would need to enact more comprehensive protections for consumers beyond AB 34. Otherwise, the cost of medical and pharmacy care costs for individuals with pre-existing conditions that is currently built into individual market premiums would make health insurance unaffordable for Wisconsin families without a program or programs in place to mitigate the costs and keep comprehensive coverage affordable for all consumers. In other words, insurance would be unaffordable for families without a) some funding to offset the cost or b) price controls on how much health care providers can charge to care for those purchasing insurance in the individual market, similar to what was in place for the Health Insurance Risk Sharing Plan (HIRSP) under previous law.

Conclusion

The Supreme Court is expected to issue its ruling in *California v. Texas* this Spring or Summer. We encourage the legislature to wait for the decision before it takes up AB 34.

We have in the past supported legislation similar to AB 34 as a first step toward protecting families, as it would eliminate uncertainties for consumers who are worried about their coverage for pre-existing conditions. Unfortunately, AB 34 falls well short of fully protecting the health of these families in the event of an adverse court ruling that impacts the entire ACA. Given that we cannot predict the outcome of the ACA ruling today, we would prefer that the legislature wait to consider AB 34 once the Supreme Court ruling is issued. At that point or at any time prior, we would like to see the legislature and governor work together on ideas that reduce the cost of health care in Wisconsin and fully protect the interests of insurance consumers.

Protecting and improving the individual market should be a consensus issue for lawmakers, health providers, employers and citizens. Wisconsin needs a healthy individual market to serve those that are not offered insurance through their employer, as comprehensive insurance coverage means fewer families are in medical debt and fewer unpaid bills for medical providers.

We stand ready to help Wisconsin lawmakers understand changes in the market and minimize the detrimental impact that are likely to occur due to uncertainties like *California v. Texas*. We have data that shows how incredibly expensive health care is for individuals with pre-existing conditions (which is most people covered in the individual market) and how this would not be “just another insurance mandate” that companies would have to figure out.

If you would like additional information about the cost of pre-existing condition coverage, or if we can be of any assistance in answering questions, please do not hesitate to contact Melissa Duffy at (608) 334-0624.



March 3, 2021

Representative David Steffen
Chair, Assembly Committee on Insurance
Room 323 North
State Capitol
PO Box 8953
Madison, WI 53708

Re: AHIP Comments on Assembly Bill 34 - Pre-Existing Conditions

Dear Chairman Steffen:

I write today on behalf of America's Health Insurance Plans¹ to provide comments concerning the preexisting condition prohibition in Assembly Bill 34, which is an issue of concern for our members. It is our position that every American should be able to get affordable, comprehensive coverage, regardless of their income, health status, or any preexisting conditions.

We understand and share the concerns of the legislature about the possibility of consumers losing pre-existing condition protections should the Affordable Care Act (ACA) be struck down or become unenforceable. However, enacting pre-existing condition protections (such as community rating requirements, and a mandate to guarantee issue a policy to any individual) as a stand-alone policy will not ensure access to coverage for people with pre-existing conditions. In fact, enacting these measures on their own can lead to a lack of affordable insurance options for everyone shopping for insurance in the individual market, both those who have pre-existing conditions and those who don't.

Additional protections are needed in tandem with pre-existing condition protections for the market to be stable and function properly. Most critically, broad-based participation is critical for an affordable and stable individual insurance marketplace. Premium tax credits and a structure to shop and purchase health insurance are crucial to ensuring Wisconsin residents who don't have employer sponsored coverage, Medicaid, or Medicare can find and afford coverage. This kind of broad enrollment is necessary to create and sustain a balanced risk pool and well-functioning market. Without these incentives to bring a broad cross-section of people into the market, the market may deteriorate because individuals and families drop coverage because it is unaffordable. Moreover, if a market is dysfunctional, experience in other states has shown that health insurance providers exit the market, reducing competition and access to coverage.

We have two specific concerns with the bill as drafted. First, we recommend that the premium rate variation requirements not apply to a health benefit plan offered on the individual or small employer market that is a "grandfathered" plan under s. 632.885 or a health benefit plan in effect on or before October 1, 2013, referred to as "grandmothered" plans by the Centers for Medicare & Medicaid Services (CMS). The ACA specifically excluded grandfathered plans from many of the market reforms including the rating provisions. In addition, a long-standing CMS policy most recently extended in a memorandum dated January 19, 2021,

¹ America's Health Insurance Plans (AHIP) is the national association whose members provide insurance coverage for health care and related services. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers.

also exempts certain health insurance policies. These policies are often referred to as grandmothers policies within the industry and the Wisconsin Office of the Commissioner of Insurance recently adopted this policy by way of a bulletin dated February 2, 2021. It is important to incorporate this amendment language if the goal of the legislation is to adopt conformity with the federal ACA market reforms and avoid singular disruption within the Wisconsin insurance market.

Second, we are concerned that the legislation could be interpreted to go into effect immediately if the federal pre-existing condition protections are no longer enforceable or no longer preempt state law. Due to the nature of product filing timelines, this could pose serious implementation problems that would cause unnecessary disruption to the state's insurance markets. For the individual and small group markets, rates are usually due to the insurance department mid-summer for the following plan year (e.g. rates for 2021 were due in early July 2020). Insurers need to know what rules will apply one year before the coverage would be effective to develop those products and meet the July filing deadline for insurance department review.

To mitigate disruption, consumer confusion, and premium increases, we recommend that if the federal requirements are no longer enforceable, the timeline for implementation of the state law require:

- For the calendar year during which the event that triggers the state law occurs, plans should continue to follow federal requirements related to pre-existing conditions, open enrollment and special enrollment period requirements for the remainder of the policy year. This will allow the state approved products for that plan year to continue operating as approved until the end of the policy year.
 - EXAMPLE: If a development invalidates the federal requirements in June of 2021, plans would continue to offer plans rated under the ACA market rules on a guaranteed issue basis and new enrollees would be restricted to buying such coverage only if they have a special enrollment period. These requirements would stay in place through December 31, 2021, the end of the plan year.
- For the plan year following the triggering event, the department of insurance should be required to issue regulations and guidance on the implementation of the state law with adequate time to for insurers to develop products that comply with the new state rules.
 - EXAMPLE: For reference, the filing deadline for 2021 individual market products was July 2, 2020. If a development invalidates the federal requirements in June of 2022, unless insurers know the detailed requirements under the state law (for example, the dates of the state open enrollment period), they would not be able to meet an early July filing deadline to ensure 2023 products are available to consumers when their 2022 policies end on December 31.
- To avoid unintended gaps in enrollment for consumers who are unaware of the changes, the state law should include requirements and funding for consumer outreach to ensure state residents understand what's changing, when they can sign up for coverage and where they can shop for insurance.

We will note that without premium assistance which is currently available through advanced premium tax credits, many consumers will be unable to continue coverage, even with these transitional periods in place.

We appreciate you taking our views into consideration and look forward to working to ensure the continued success of the market in Wisconsin. If you have any questions, please do not hesitate to contact me at mhaffenbredl@ahip.org (202-413-9817).

March 3, 2021
Page 3

Sincerely,

A handwritten signature in cursive script that reads "Mary Haffenbredl". The signature is written in black ink and is positioned below the word "Sincerely,".

Mary Haffenbredl
Regional Director, State Affairs, AHIP



BARBARA DITTRICH

STATE REPRESENTATIVE • 38th ASSEMBLY DISTRICT

March 2, 2021

Assembly Committee on Insurance

RE: Rep. Dittrich Testimony on AB 34 - coverage of individuals with preexisting conditions and benefit limits under health plans

Good Morning Assembly Committee Chairman Steffen and members of the committee. I appreciate the opportunity to speak to you today on this incredibly important topic, the coverage of individuals with preexisting conditions.

“We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

I believe the Preamble to our Constitution speaks to the purpose of this bill best. We must protect the general welfare of Wisconsin’s citizens by protecting their preexisting conditions. This legislation limits what health insurance companies can do in the event the Patient Protection and Affordable Care Act is overturned. At its core, it protects our families from being punished for having preexisting conditions.

I have children with preexisting conditions. I have preexisting conditions. I understand the pain preexisting conditions could cause families and fully believe this bill is the way to address this problem. Even though the administration has changed on the federal level, I don’t believe this is a guarantee that the Affordable Care Act will never be repealed. It is important to safeguard our families and children by providing this safety net.

I supported this bill last session even though it did not cross the finish line and I am happy to do so again.