



1999 ASSEMBLY BILL 392

June 24, 1999 - Introduced by Representatives CULLEN, WASSERMAN, CARPENTER, YOUNG, J. LEHMAN, ZIEGELBAUER and BOCK, cosponsored by Senators BURKE, ROBSON, CLAUSING, ROESSLER and DARLING. Referred to Committee on Insurance.

1 **AN ACT to amend** 40.51 (8), 40.51 (8m), 185.981 (4t) and 185.983 (1) (intro.); and
2 **to create** 111.91 (2) (kc), 609.90 and 631.95 of the statutes; **relating to:**
3 prohibiting certain insurance practices on the basis of domestic abuse and
4 prohibiting collective bargaining by the state with respect to the prohibitions.

Analysis by the Legislative Reference Bureau

This bill prohibits an insurer from refusing to provide or renew coverage to a person or a group, or from canceling a person's or group's coverage, under any type of insurance policy on the basis that the person or a group member has been, or that the insurer has reason to believe that the person or a group member is, a victim of child or domestic abuse or that a member of the person's or a group member's family has been, or that the insurer has reason to believe that a member of the person's or a group member's family is, a victim of child or domestic abuse. (Under the statutes, domestic abuse refers to abuse of an adult family or household member.) The bill provides, however, that for life, disability income or long-term care insurance an insurer may refuse to issue a policy that would name as beneficiary a person who is, or who the insurer has reason to believe is, a perpetrator of child or domestic abuse against the person who would be the insured under the policy. An insurer also may refuse to issue a life, disability income or long-term care insurance policy to a person who lacks an insurable interest in the person who would be the insured under the policy.

Under the bill, an insurer is prohibited from using as a factor in determining rates, or any other aspect of insurance coverage, the knowledge or suspicion that a

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person or group member has been or is a victim of child or domestic abuse or that a member of the person's or a group member's family has been or is a victim of child or domestic abuse. The bill provides, however, that in establishing premiums for an individual health insurance policy (called disability insurance policy in the statutes) an insurer may inquire about and use information related to a person's existing medical condition, regardless of whether the condition was caused by child or domestic abuse.

The bill prohibits a health insurer from excluding or limiting coverage to a person or a group under a health insurance policy, or from denying a claim, for services or items related to the treatment of injury or disease resulting from child or domestic abuse on the basis that the person or a group member has been, or that the insurer has reason to believe that the person or a group member is, a victim of child or domestic abuse or that a member of the person's or a group member's family has been, or that the insurer has reason to believe that a member of the person's or a group member's family is, a victim of child or domestic abuse.

A life insurer is prohibited from denying or limiting benefits to a beneficiary in the event that the death of the person whose life is insured results from child or domestic abuse on the basis that the person whose life is insured has been, or that the insurer has reason to believe that the person whose life is insured is, a victim of child or domestic abuse or that a member of the family of the person whose life is insured has been, or that the insurer has reason to believe that a member of the family of the person whose life is insured is, a victim of child or domestic abuse. A life insurer may, however, deny or limit benefits to a beneficiary who perpetrates child or domestic abuse that results in the death of the person whose life is insured.

An insurer under a property and casualty insurance policy is prohibited from denying a claim of an insured on the basis that the damage to which the claim relates was caused by an intentional act, including child or domestic abuse. If the purpose of the claim is to obtain insurance proceeds, however, the prohibition applies only if the insured making the claim was unaware that the person intended to commit the intentional act.

With certain exceptions, the bill prohibits a person employed by an insurer or contracting with an insurer from using, disclosing or transferring certain personal information related to child or domestic abuse, such as information about whether a person or group member, or a member of the person's or group member's family, has been or is believed to be a victim of child or domestic abuse and information about any medical condition of a person or group member, or member of the person's or group member's family, that is or that is believed to be the result of child or domestic abuse. With certain exceptions, the bill also prohibits a person employed by an insurer or contracting with an insurer from disclosing or transferring information related to the telephone number or address of a person or group member who is an insured or applicant for insurance, or a member of the family of a person or group member who is an insured or applicant for insurance.

The bill requires an insurer that denies coverage to a person or group under any type of insurance policy to advise the applicant in writing of the reasons for the denial. Insurers are already required under current law to specify in a cancellation

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or nonrenewal notice the basis for the cancellation or nonrenewal of an insurance policy.

Finally, the bill gives life insurers immunity from any civil or criminal liability for: 1) denying benefits to a beneficiary who is the perpetrator of child or domestic abuse that results in the death of the insured; 2) refusing to issue a life insurance policy that names as a beneficiary a person who is, or who the insurer has reason to believe is, a perpetrator of child or domestic abuse against the person who would be the insured under the policy; and 3) the death of, or injury to, an insured resulting from child or domestic abuse.

Current law contains two provisions that are somewhat similar to provisions in the bill. An insurer may not condition the provision of insurance coverage on, or consider in the determination of rates or any other aspect of insurance coverage, whether a person has obtained, or the results of, a test for the presence of human immunodeficiency virus (HIV), antigen or nonantigenic products of HIV or an antibody to HIV, or whether a person or a member of the person's family has obtained, or the results of, a genetic test.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 40.51 (8) of the statutes, as affected by 1997 Wisconsin Act 27,
2 section 1324m, is amended to read:

3 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
4 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.746 (1) to (8)
5 and (10), 632.747, 632.748, 632.87 (3) to (5), 632.895 (5m) and (8) to (13) and 632.896.

6 **SECTION 2.** 40.51 (8m) of the statutes, as affected by 1997 Wisconsin Act 27,
7 section 1325m, is amended to read:

8 40.51 (8m) Every health care coverage plan offered by the group insurance
9 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747
10 and, 632.748 and 632.895 (11) to (13).

11 **SECTION 3.** 111.91 (2) (kc) of the statutes is created to read:

12 111.91 (2) (kc) Compliance with the insurance requirements under s. 631.95.

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1 **SECTION 4.** 185.981 (4t) of the statutes, as affected by 1997 Wisconsin Act 27,
2 section 3133m, is amended to read:

3 185.981 (4t) A sickness care plan operated by a cooperative association is
4 subject to ss. 252.14, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.87 (2m), (3),
5 (4) and (5), 632.895 (10) to (13) and 632.897 (10) and chs. 149 and 155.

6 **SECTION 5.** 185.983 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
7 Act 27, section 3134m, is amended to read:

8 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
9 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
10 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 631.95,
11 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.87 (2m), (3), (4) and (5),
12 632.895 (5) and (9) to (13), 632.896 and 632.897 (10) and chs. 609, 630, 635, 645 and
13 646, but the sponsoring association shall:

14 **SECTION 6.** 609.90 of the statutes is created to read:

15 **609.90 Restrictions related to domestic abuse.** Limited service health
16 organizations, preferred provider plans and managed care plans are subject to s.
17 631.95.

18 **SECTION 7.** 631.95 of the statutes is created to read:

19 **631.95 Restrictions on insurance practices; domestic abuse. (1)**

20 DEFINITIONS. In this section:

21 (a) “Abuse” has the meaning given in s. 813.122 (1) (a).

22 (b) “Disability insurance policy” has the meaning given in s. 632.895 (1) (a).

23 (c) “Domestic abuse” has the meaning given in s. 968.075 (1) (a).

24 **(2) GENERAL PROHIBITIONS.** Except as provided in sub. (3), an insurer may not
25 do any of the following:

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1 (a) Refuse to provide or renew coverage to a person, or cancel a person's
2 coverage, under an individual or group insurance policy or a certificate of group
3 insurance on the basis that the person has been, or the insurer has reason to believe
4 that the person is, a victim of abuse or domestic abuse or that a member of the
5 person's family has been, or the insurer has reason to believe that a member of the
6 person's family is, a victim of abuse or domestic abuse.

7 (b) Refuse to provide or renew coverage to an employer or other group, or cancel
8 an employer's or other group's coverage, under a group insurance policy on the basis
9 that an employe or other group member has been, or the insurer has reason to believe
10 that an employe or other group member is, a victim of abuse or domestic abuse or that
11 a member of an employe's or other group member's family has been, or the insurer
12 has reason to believe that a member of an employe's or other group member's family
13 is, a victim of abuse or domestic abuse.

14 (c) Use as a factor in the determination of rates or any other aspect of insurance
15 coverage under an individual or group insurance policy or a certificate of group
16 insurance the knowledge or suspicion that a person or an employe or other group
17 member has been or is a victim of abuse or domestic abuse or that a member of the
18 person's or an employe's or other group member's family has been or is a victim of
19 abuse or domestic abuse.

20 (d) Under an individual or group disability insurance policy or a certificate of
21 group disability insurance, exclude or limit coverage of, or deny a claim for, health
22 care services or items related to the treatment of injury or disease resulting from
23 abuse or domestic abuse on the basis that a person or an employe or other group
24 member has been, or the insurer has reason to believe that a person or an employe
25 or other group member is, a victim of abuse or domestic abuse or that a member of

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1 the person's or an employe's or other group member's family has been, or the insurer
2 has reason to believe that a member of the person's or an employe's or other group
3 member's family is, a victim of abuse or domestic abuse.

4 (e) Under an individual or group life insurance policy or a certificate of group
5 life insurance, deny or limit benefits in the event that the death of the person whose
6 life is insured results from abuse or domestic abuse on the basis that the person
7 whose life is insured has been, or the insurer has reason to believe that the person
8 whose life is insured is, a victim of abuse or domestic abuse or that a member of the
9 family of the person whose life is insured has been, or the insurer has reason to
10 believe that a member of the family of the person whose life is insured is, a victim
11 of abuse or domestic abuse.

12 (f) Under a property and casualty insurance policy, deny a claim of an insured
13 on the basis that the damages to which the claim relates were caused by an
14 intentional act, including abuse or domestic abuse, committed by another person,
15 regardless of whether that other person is also an insured. If the intentional act was
16 committed for the purpose of obtaining insurance proceeds, this paragraph applies
17 only if the insured making the claim had no knowledge that the other person
18 intended to commit the intentional act.

19 **(3) EXCEPTIONS AND QUALIFICATIONS RELATED TO PROHIBITIONS.** (a) *Individual*
20 *disability insurance.* In establishing premiums for an individual disability
21 insurance policy, an insurer may inquire about a person's existing medical condition
22 and, based on the opinion of a qualified actuary, as defined in s. 623.06 (1c), use
23 information related to a person's existing medical condition, regardless of whether
24 that condition is or may have been caused by abuse or domestic abuse.

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1 (b) *Life insurance.* With respect to an individual or group life insurance policy
2 or a certificate of group life insurance, an insurer may, on the basis of information
3 in medical, law enforcement or court records, do any of the following:

4 1. Deny or limit benefits under such a policy or certificate to a beneficiary who
5 is the perpetrator of abuse or domestic abuse that results in the death of the insured.

6 2. Refuse to issue such a policy or certificate that names as a beneficiary a
7 person who is, or who the insurer has reason to believe is, a perpetrator of abuse or
8 domestic abuse against the person who is to be the insured under the policy.

9 3. Refuse to name as a beneficiary under such a policy or certificate a person
10 who is, or who the insurer has reason to believe is, a perpetrator of abuse or domestic
11 abuse against the insured under the policy.

12 4. Refuse to issue such a policy or certificate to a person who is, or who the
13 insurer has reason to believe is, a perpetrator of abuse or domestic abuse against the
14 person who is to be the insured under the policy.

15 5. Refuse to issue such a policy or certificate to a person who lacks an insurable
16 interest in the person who is to be the insured under the policy.

17 6. For purposes of underwriting or administering a claim under such a policy
18 or certificate, inquire about and use information related to a person's existing
19 medical condition, regardless of whether that condition is or may have been caused
20 by abuse or domestic abuse. Any adverse underwriting decision based on a person's
21 medical condition must be made in conformance with sound actuarial principles or
22 otherwise supported by actual or reasonably anticipated experience.

23 (c) *Disability income or long-term care insurance.* With respect to an individual
24 or group disability income or long-term care insurance policy or a certificate of group

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1 disability income or long-term care insurance, an insurer may, on the basis of
2 information in medical, law enforcement or court records, do any of the following:

3 1. Refuse to name as a beneficiary under such a policy or certificate a person
4 who is, or who the insurer has reason to believe is, a perpetrator of abuse or domestic
5 abuse against the insured under the policy.

6 2. Refuse to issue such a policy or certificate to a person who is, or who the
7 insurer has reason to believe is, a perpetrator of abuse or domestic abuse against the
8 person who is to be the insured under the policy.

9 3. Refuse to issue such a policy or certificate to a person who lacks an insurable
10 interest in the person who is to be the insured under the policy.

11 4. For purposes of underwriting, establishing premiums for or administering
12 a claim under such a policy or certificate, inquire about and use information related
13 to a person's existing medical condition, regardless of whether that condition is or
14 may have been caused by abuse or domestic abuse. Any adverse underwriting
15 decision based on a person's medical condition must be made in conformance with
16 sound actuarial principles or otherwise supported by actual or reasonably
17 anticipated experience.

18 **(4) IMMUNITY FOR LIFE INSURERS.** A life insurer is immune from any civil or
19 criminal liability for any action taken under sub. (3) (b) or for the death of, or injury
20 to, an insured that results from abuse or domestic abuse not committed by the
21 insurer.

22 **(5) REASON FOR DENIAL IN WRITING.** An insurer that denies coverage under an
23 individual or group insurance policy or a certificate of group insurance shall advise
24 the applicant or proposed insured in writing of the reasons for the denial.

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1 **(6) USE AND DISCLOSURE OF ABUSE INFORMATION.** (a) Except as provided in pars.
2 (c) and (d) and sub. (3), no person employed by or contracting with an insurer may
3 use, disclose or transfer information related to any of the following:

4 1. Whether an insured or applicant for insurance or a member of the insured's
5 or applicant's family, or whether an employe or other group member of an insured
6 or applicant for insurance or a member of the employe's or other group member's
7 family, has been a victim of abuse or domestic abuse or is believed, with reason, by
8 the person employed by or contracting with the insurer to be a victim of abuse or
9 domestic abuse.

10 2. Any medical condition of an insured or applicant for insurance or a member
11 of the insured's or applicant's family, or of an employe or other group member of an
12 insured or applicant for insurance or a member of the employe's or other group
13 member's family, that is, or that the person employed by or contracting with the
14 insurer has reason to believe is, the result of abuse or domestic abuse.

15 3. Whether an insured or applicant for insurance, or whether an employe or
16 other group member of an insured or applicant for insurance, is a family member or
17 associate of, or a person in a relationship with, a person who has been, or who the
18 person employed by or contracting with the insurer has reason to believe is, a victim
19 of abuse or domestic abuse.

20 4. Whether an insured or an applicant for insurance is an employer of a person
21 who has been, or who the person employed by or contracting with the insurer has
22 reason to believe is, a victim of abuse or domestic abuse.

23 (b) Except as provided in pars. (c) and (d), a person employed by or contracting
24 with an insurer may not disclose or transfer information related to the telephone
25 number or address or other location of any of the following individuals, if the person

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1 knows that the individual has been, or has reason to believe that the individual is,
2 a victim of abuse or domestic abuse:

- 3 1. An insured.
- 4 2. An applicant for insurance.
- 5 3. An employe of an insured or of an applicant for insurance.
- 6 4. A group member of an insured or of an applicant for insurance.
- 7 5. A member of the family of any of the individuals listed in subds. 1. to 4.

8 (c) Paragraphs (a) and (b) do not apply if the use, disclosure or transfer of the
9 information is made with the consent of the individual to whom the information
10 relates or if the use, disclosure or transfer satisfies any of the following:

- 11 1. Is for a purpose related to the direct provision of health care services.
- 12 2. Is necessary for a valid business purpose, including the disclosure or transfer

13 of the information to any of the following:

- 14 a. A reinsurer.
- 15 b. A party to a proposed or consummated sale, transfer, merger or consolidation
- 16 of all or part of the business of the insurer.
- 17 c. Medical, underwriting or claims personnel under contract or affiliated with
- 18 the insurer.
- 19 d. An attorney representing the interests of the insurer.

20 3. Is in response to legal process.

21 4. Is required by a court order or an order of an entity with authority to regulate
22 insurance, or is otherwise required by law.

23 5. Is required or authorized by the commissioner by rule.

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1 (d) Nothing in this subsection limits or precludes an insured or an applicant
2 for insurance, or an employe or other group member of an insured or applicant for
3 insurance, from obtaining his or her own insurance records from an insurer.

SECTION 8. Initial applicability.

4 (1) This act first applies to all of the following:

5 (a) Except as provided in paragraph (b), policies or certificates that are issued,
6 renewed or applied for, whichever is appropriate, on the effective date of this
7 paragraph.
8

9 (b) Policies or certificates covering employes who are affected by a collective
10 bargaining agreement containing provisions inconsistent with this act that are
11 issued, renewed or applied for, whichever is appropriate, on the earlier of the
12 following:

13 1. The day on which the collective bargaining agreement expires.

14 2. The day on which the collective bargaining agreement is extended, modified
15 or renewed.

SECTION 9. Effective date.

16 (1) This act takes effect on the first day of the 6th month beginning after
17 publication.
18

19 (END)