

1999 DRAFTING REQUEST

Bill

Received: **02/19/99**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Terese Berceau (608) 266-3784**

By/Representing: **Tom Powell**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

Subject: **Insurance - health**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Requiring health insurance coverage of contraceptives

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 02/19/99	wjackson 02/19/99		_____			S&L
/1			martykr 02/19/99	_____	lrb_docadmin 02/19/99	lrb_docadmin 03/18/99	
				_____	gretskl 03/9/99		
				_____	gretskl 03/9/99		

FE Sent For:

05-24-99

<END>

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1?	kahlepj	1 Wlj 2/19	<i>[Signature]</i> 2/19	<i>[Signature]</i> 3/2/99			

FE Sent For:

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redraft

2-19

AB 693

Tom
Powell

6-3784

vis. cov. of
contraceptives

T. Berceau

done -
print
date

2123



1999 BILL

1 AN ACT ^{Regen} ~~to amend~~ 40.51 (8), 40.51 (8m), 60.23 (25), 66.184, 111.91 (2) (n), 120.13
2 (2) (g), 185.981 (4t) and 185.983 (1) (intro.); and **to create** 609.73 and 632.895
3 (14) of the statutes; **relating to:** requiring health insurance policies to cover
4 contraceptive articles and services.

Analysis by the Legislative Reference Bureau

This bill requires every health insurance policy (called "disability insurance policy" in the statutes), including managed care plans and health care plans offered by the state, and every self-insured health plan of a school district, county, city or village, to provide coverage for contraceptive articles and services if the policy or plan covers outpatient health care services. Contraceptive articles include any drug or device that is approved by the federal food and drug administration (FDA) and prescribed by a licensed health care provider for use to prevent a pregnancy and any hormonal compound that is taken orally and approved by the FDA for use to prevent a pregnancy. A contraceptive article, however, does not include any drug or device that is prescribed for use in terminating a pregnancy of a woman who is known to be pregnant by the prescribing health care provider. Contraceptive services include medical procedures performed to prevent a pregnancy and physical examinations and medical counseling for the prescription or use of a contraceptive article. Specifically excluded from this coverage requirement are health insurance policies that cover only certain specified diseases, limited service health care plans, medicare replacement and supplement policies and long-term care insurance policies.

BILL

Deductibles and copayments that apply generally to the policy or plan may apply to contraceptive articles and services.

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 is amended to read:

2 40.51 (8) Every health care coverage plan offered by the state under sub. (6)
3 shall comply with ss. 631.89, 631.90, 631.93 (2), 632.72 (2), 632.746 (1) to (8) and (10),
4 632.747, 632.748, 632.85, 632.853, 632.855, 632.87 (3) to (5), 632.895 (5m) and (8) to
5 ~~(13)~~ (14) and 632.896.

6 **SECTION 2.** 40.51 (8m) of the statutes is amended to read:

7 40.51 (8m) Every health care coverage plan offered by the group insurance
8 board under sub. (7) shall comply with ss. 632.746 (1) to (8) and (10), 632.747,
9 632.748, 632.85, 632.853, 632.855 and 632.895 (11) to ~~(13)~~ (14).

10 **SECTION 3.** 60.23 (25) of the statutes is amended to read:

11 60.23 (25) SELF-INSURED HEALTH PLANS. Provide health care benefits to its
12 officers and employes on a self-insured basis if the self-insured plan complies with
13 ss. 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85,
14 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) and (11) to ~~(13)~~ (14) and 632.896.

15 **SECTION 4.** 66.184 of the statutes is amended to read:

16 **66.184 Self-insured health plans.** If a city, including a 1st class city, or a
17 village provides health care benefits under its home rule power, or if a town provides
18 health care benefits, to its officers and employes on a self-insured basis, the
19 self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),
20 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.85, 632.853, 632.855, 632.87 (4) and (5),

BILL

1 632.895 (9) to ~~(13)~~ (14), 632.896, 767.25 (4m) (d), 767.51 (3m) (d) and 767.62 (4) (b)

2 4.

3 **SECTION 5.** 111.91 (2) (n) of the statutes is amended to read:

4 111.91 (2) (n) The provision to employes of the health insurance coverage
5 required under s. 632.895 (11) to ~~(13)~~ (14).

6 **SECTION 6.** 120.13 (2) (g) of the statutes is amended to read:

7 120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.
8 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.746 (10) (a) 2. and (b) 2., 632.747 (3),
9 632.85, 632.853, 632.855, 632.87 (4) and (5), 632.895 (9) to ~~(13)~~ (14), 632.896, 767.25
10 (4m) (d), 767.51 (3m) (d) and 767.62 (4) (b) 4.

11 **SECTION 7.** 185.981 (4t) of the statutes is amended to read:

12 185.981 (4t) A sickness care plan operated by a cooperative association is
13 subject to ss. 252.14, 631.89, 632.72 (2), 632.745 to 632.749, 632.85, 632.853, 632.855,
14 632.87 (2m), (3), (4) and (5), 632.895 (10) to ~~(13)~~ (14) and 632.897 (10) and chs. 149
15 and 155.

16 **SECTION 8.** 185.983 (1) (intro.) of the statutes is amended to read:

17 185.983 (1) (intro.) Every such voluntary nonprofit sickness care plan shall be
18 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
19 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 632.72
20 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853, 632.855, 632.87
21 (2m), (3), (4) and (5), 632.895 (5) and (9) to ~~(13)~~ (14), 632.896 and 632.897 (10) and
22 chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

23 **SECTION 9.** 609.73 of the statutes is created to read:

24 **609.73 Coverage of contraceptive articles and services.** Managed care
25 plans are subject to s. 632.895 (14).

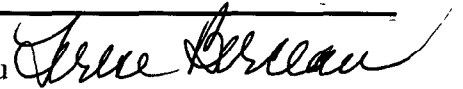
**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 2/19/99

To: Representative Berceau



Relating to LRB drafting number: LRB-2280

Topic

Requiring health insurance coverage of contraceptives

Subject(s)

Insurance - health

1. **JACKET** the draft for introduction



in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Pamela J. Kahler, Senior Legislative Attorney
Telephone: (608) 266-2682



Wisconsin Right to Life, Inc.

State Affiliate of the National
Right to Life Committee, Inc.
Washington, DC 20004-2293

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April 8, 1999

TO: State Legislators
FROM: Susan Armacost, Legislative Director
RE: Legislation to mandate insurance coverage for contraceptives

Wisconsin Right to Life takes no position on contraceptives as long as those contraceptives truly prevent the creation of human life.

However, Rep. Berceau's legislation would mandate insurance coverage for certain practices that act to destroy human life after it has been created.. By mandating this coverage, the consciences of tens of thousands of Wisconsinites who want and need insurance coverage for themselves would be severely violated because it would be their insurance premiums that would be used to pay to end human lives.

What are the problems with Rep. Berceau's legislation? It mandates coverage for "contraceptive articles" and "medical procedures" that are used to "prevent a pregnancy." The term pregnancy has traditionally been defined as beginning at fertilization, when the egg and sperm unite to create a new human life. But some in the medical arena, particularly in the abortion industry, have taken it upon themselves to redefine "pregnancy" as beginning at implantation, which can occur up to 8 days after implementation. Using this game of semantics, any abortion technique can be used within that 8 day period to deliberately destroy a human life and that technique would still fall within the "contraceptive article" definition because "pregnancy" had not yet occurred.

Consider Dr. Jerry Edwards, a Planned Parenthood abortionist in Houston, who developed an abortion procedure that can be performed as early as 8 days after fertilization. With today's ultra sensitive pregnancy tests, a women can find out within a week of having sex whether she is pregnant. After confirming the pregnancy, it takes Edwards just 10 minutes with a hand-held syringe to remove the newly created life. He stated he has done this procedure on about 3,500 women.

(more)

Dedicated successfully since 1968 to advocating for and protecting precious human life.

Please remember the Wisconsin Right to Life Education Fund 501(c)(3) charity and its lifesaving programs in your estate plan. By doing so, you may be able to achieve significant income, gift or estate tax benefits. Please call our development department today for confidential help in successfully implementing the gift plan most suitable for you.

Wisconsin Right to Life, Inc.
10625 West North Avenue, Suite LL
Milwaukee, WI 53226-2331

PH: 414/778-5780

FAX: 414/778-5785

E-MAIL: wrtl@inc.net

HMPGE: <http://www.wrtl.org>

Under Rep. Berceau's legislation, insurance coverage for procedures like this would be mandated!

I would also like to call your attention to the way the bill defines what is not a contraceptive article. It defines it as... "any drug, medicine, mixture, preparation, instrument, article or device of any nature prescribed for use in terminating the pregnancy of a woman known by the prescribing licensed health care provider to be pregnant."

The stage at which a woman is known to be pregnant by the health care provider can be quite far along in the pregnancy. This language would be interpreted to require insurance coverage for the use of abortion drugs or even surgical abortions, like the ones described by Colorado abortionist, Warren Hern in his book "Abortion Practice." Hern's book has been described by the abortion industry as "a standard text in the abortion field and an important part of every medical library."

Hern describes a procedure called menstrual extraction, a term he says "is used to designate the performance of an early abortion before the diagnosis of pregnancy has been established through pregnancy test or examination. The term originated as a euphemism for early abortion prior to the legalization of abortion and was perceived by its originators as a useful deception." Hern continued, "It is simple to do, requiring only a hand suction device...It allows the woman, if she wishes, to avoid the emotional trauma of knowing she is pregnant."

Under Rep. Berceau's bill, insurance coverage for procedures like this would be mandated!

It was not long ago that the distinction between contraceptives and abortion was clear. That is not the case today. The abortion/contraceptive industry has blurred the lines between the two to the point where they are virtually indistinguishable. We would find it reprehensible for the legislature to put its stamp of approval on legislation that would result in mandated coverage for the destruction of human life and would force all insured individuals to subsidize it with their premiums.

This legislation was introduced last session by Rep. Rebecca Young. Wisconsin Right to Life vigorously opposed the measure and it died in committee. We urge you to reject the attempt to resurrect it this session.

Thank you.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

April 13, 1999

MEMORANDUM

To: Representative Terese Berceau

From: Pamela J. Kahler, legislative attorney

Subject: Insurance coverage of contraceptives and abortion implications

This memorandum addresses the memorandum written on behalf of Wisconsin Right to Life, Inc. (Right to Life memo), concerning LRB-2280, which requires insurance coverage of contraceptives.

The Right to Life memo states, without any supporting documentation, that "pregnancy has traditionally been defined as beginning at fertilization". The memo does not explain what is meant by "traditionally" or who defines pregnancy in this manner. I am not aware that there is agreement in the scientific or medical community on the meaning of "pregnancy". This is a philosophical issue. The statutes do not define pregnant or pregnancy for any purpose and neither does the bill. (Section 940.16 (1) (a) defines "child" as a human being from the time of fertilization, but this definition applies only in that section, which makes the performance of a partial birth abortion a crime, and not in any other context in which the word "child" is used.)

After stating that pregnancy begins at fertilization, the Right to Life memo makes the assumption that the bill would allow pregnancy to be defined as beginning at implantation, which would allow a procedure that prevents implantation (abortion, in the view of Right to Life) to be paid for by insurance. It is true that the bill would require insurance coverage for contraceptives that work by preventing implantation, if there are contraceptives that work in this way. I don't know for certain. It is my understanding that the exact operation of some contraceptives, the intrauterine device (IUD) for example, is not entirely clear. In other words, I think that the medical community does not know for certain whether IUD's prevent fertilization or implantation. IUD's simply prevent pregnancy.

The concern of Right to Life over the exact *phase* of pregnancy that is prevented by a contraceptive could be addressed by requiring insurance coverage of drugs, devices, etc., that prevent fertilization, but not those that prevent implantation. Because of the uncertainty about how some contraceptives work, however, the bill would probably have to specify the contraceptive types that are known to prevent fertilization. Those not specified would not be covered, either because they prevent implantation or because how they work is not known for certain.

The Right to Life memo cites the example of Dr. Jerry Edwards, who, according to Right to Life, developed an abortion procedure that can be performed as early as 8 days after fertilization. The

Handwritten marks and symbols in the top right corner, including a small 'A' and some illegible characters.

The Pill's other use

By MELANIE CONKLIN

Sharon was having sex with her boyfriend when "the accident" happened.

She was shocked. Sharon and her boyfriend had been using condoms for six years without a problem. Now, at a risky time in her monthly cycle, the condom broke. But she recalled a girlfriend mentioning the morning-after pill—a form of emergency contraception that, in spite of its name, can prevent pregnancy up to 72 hours after unprotected sex. Sharon called Planned Parenthood the next day, went in for an appointment and got the pills.

"I was due to ovulate about two days after the accident, and I didn't want to have children yet," says Sharon, a 32-year-old Madison resident who asked that her real name not be used. "I'm happy it's available—it really took the worry out of it."

Many women may find themselves in similar straits—the diaphragm slips, pills are forgotten, protection isn't used. Or, in the worst-case scenario, a woman is sexually assaulted. There are 3.5 million unintended pregnancies nationwide each year. Yet emergency contraception, which prevents pregnancy 75% of the time, appears to be a well-kept secret.

"It's incredible stuff used far too infrequently," says Dr. Elizabeth Karlin of the Women's Medical Center. "I talk about it all the time."

Ironically, emergency contraception recently drew attention locally because its availability seemed suddenly threatened. Family planning advocates worried that language in Wisconsin's new law mandating a 24-hour waiting period for abortions currently under a court-ordered suspension because opponents challenged its constitutionality could be applied to emergency contraception, virtually rendering it useless.

Rep. Glenn Grothman, author of the law, insists the waiting period kicks in only when a woman knows she's pregnant. But officials at Planned Parenthood, which will continue to dispense the medication, worry that other doctors may be cowed by the se-

vere penalties contained in the law.

"We're afraid emergency rooms and other places might withhold the morning-after pill in an attempt to comply with the law," says Richard Withers, Planned Parenthood's vice president of public policy. "We'll try and get the courts to define this a little more clearly."

Given its obscurity, it's not surprising that the form and function of emergency contraception is often misunderstood. The morning-after pill is nothing more than a high

dosage of regular birth control pills that prevents pregnancy by altering ovulation or keeping a fertilized egg from being implanted in the uterus. Inserting an IUD up to seven days after sexual contact is another less common method of emergency contraception.

What the morning-after pill does not do is abort a pregnancy. In fact, doctors who promote it say more widespread use could result in 800,000 fewer abortions a year. Nevertheless, it's often confused with RU 486, the so-called French abortion pill, which has yet to be approved for distribution in

Emergency contraception is highly effective in preventing pregnancy after unprotected sex. Why do so few people know about it?

the United States. While RU 486 can be used in low dosages as emergency contraception, it's mainly used to terminate pregnancy.

Locally, birth control pills (two to four pills of a brand such as Ovral or Nordette, taken twice in 12 hours) are most commonly prescribed for emergency contraception. The cost varies from \$5 for students at the UW clinic, to around \$30 at Planned Parenthood with a counseling visit or pregnancy test, to \$60 or more at some clinics.

If a woman has had unprotected sex that month on other occasions, clinics will give a pregnancy test before prescribing emergency contraception. Some also do examinations, and almost all doctors use the visit to prescribe a regular contraceptive regimen.

Critics of emergency contraception argue that women will rely on the morning-after pill as their regular method of birth control. Sharon scoffs at the idea, noting that she experienced severe nausea and vomiting from the medication. Her experience isn't uncommon—half the patients have some nausea, about 20% vomit.

But some, like Denise, don't experience any side effects whatsoever. Still, the 22-year-old, who took the morning-after pill last month, has no plans to use it except in an emergency: "To be safe instead of sorry."

Of the 95,000 patients Planned Parenthood served statewide in 1995, only 1,000 women (1%) came in for the morning-after pill. Given the benefits, why is emergency contraception so infrequently used?

First, says Planned Parenthood's Debbie Ludka, women don't know about it. Without Federal Drug Administration approval for this use, birth control pills cannot be advertised as emergency contraception, even though their use in this manner has been tested and proven safe and effective.

Second, timing is a problem. While emergency contraception isn't restricted to "the morning after," it does have to be used within 72 hours of unprotected sex—and the sooner, the more effective. Many women miss the window of opportunity because

CONTINUED ON NEXT PAGE

HEALTH

Home improvement for the nimbly challenged / Page 41
For Middle Eastern cooking, go strait to the Dardanelles / Page 44

Kahler, Pam

From: Powell, Thomas
Sent: Thursday, April 29, 1999 1:12 PM
To: Kahler, Pam
Subject: RE: Emergency contraception

Pam,

I have been assured by the Planned Parenthood folks that the FDA has since approved the Pill for emergency contraception.

Thanks,

Tom Powell

-----Original Message-----

From: Kahler, Pam
Sent: Monday, April 26, 1999 4:45 PM
To: Powell, Thomas
Subject: Emergency contraception

Tom:

I just read the first page of the Isthmus article you left me and noted that even the Pill as an emergency contraceptive would not be covered by insurance under the bill because it has not been approved by the FDA for that use (unless the FDA has since the article was written approved the use of the Pill for emergency contraception).