

1999 SENATE BILL 369

February 8, 2000 – Introduced by Senators BURKE, CLAUSING, COWLES, DARLING, ERPENBACH, GROBSCHMIDT, MOORE, PLACHE, ROBSON, ROESSLER, ROSENZWEIG, RUDE and WIRCH, cosponsored by Representatives CULLEN, WASSERMAN, BALOW, BERCEAU, BOCK, BOYLE, CARPENTER, KELSO, J. LEHMAN, MILLER, MUSSER, POCAN, RICHARDS, SCHNEIDER, TRAVIS, TURNER, YOUNG and ZIEGELBAUER. Referred to Insurance, Tourism, Transportation and Corrections.

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), 609.89, 609.90, 631.17 and 631.95 of the statutes;
 3 **relating to:** prohibiting certain insurance practices on the basis of domestic
 4 abuse, providing written reasons for coverage denial and prohibiting collective
 5 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 was, or who the insurer has reason to believe is or was, 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.

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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 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 a 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 providing property insurance coverage that excludes coverage for loss or damage resulting from intentional acts is prohibited from denying a claim based on property loss or damage resulting from acts of child or domestic abuse if the insured making the claim did not cooperate in or contribute to the creation of the loss or damage and if the person who caused the loss or damage is criminally prosecuted for the acts that caused the loss or damage.

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, is or has been or is believed to be or to have been a victim 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, and who is or has been or who is believed to be or to have been a victim of child or domestic abuse.

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 an insurer immunity from any civil or criminal liability for actions that, in the bill, are exceptions to the specified prohibited actions, including: 1) denying life insurance 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 was, or who the insurer has reason to believe is or was, a perpetrator of child or domestic abuse against the person who would be the insured under the policy; 3) refusing to name as a beneficiary under a life, disability income or long-term care insurance policy a person who is or was, or who the insurer has reason to believe is or was, a perpetrator of child or domestic abuse against the person who would be the insured under the policy; and 4) inquiring about and using information related to a person's medical condition, regardless of whether the condition was caused by child or domestic abuse, for the purpose of establishing premiums under a health insurance policy and for various other insurance-related purposes under a life, disability income or long-term care insurance policy. The bill also gives an insurer immunity from civil and criminal liability for 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 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), 631.95, 632.72 (2), 632.746 (1) to (8)
- 4 and (10), 632.747, 632.748, 632.85, 632.853, 632.855, 632.87 (3) to (5), 632.895 (5m)
- 5 and (8) to (13) and 632.896.
- 6 **SECTION 2.** 40.51 (8m) of the statutes is amended to read:

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1 40.51 **(8m)** Every health care coverage plan offered by the group insurance
2 board under sub. (7) shall comply with ss. 631.95, 632.746 (1) to (8) and (10), 632.747,
3 632.748, 632.85, 632.853, 632.855 and 632.895 (11) to (13).

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

5 111.91 **(2)** (kc) Compliance with the insurance requirements under s. 631.95.

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

7 185.981 **(4t)** A sickness care plan operated by a cooperative association is
8 subject to ss. 252.14, 631.17, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.85,
9 632.853, 632.855, 632.87 (2m), (3), (4) and (5), 632.895 (10) to (13) and 632.897 (10)
10 and chs. 149 and 155.

11 **SECTION 5.** 185.983 (1) (intro.) of the statutes is amended to read:

12 185.983 **(1)** (intro.) Every such voluntary nonprofit sickness care plan shall be
13 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
14 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.17, 631.89, 631.93,
15 631.95, 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.85, 632.853,
16 632.855, 632.87 (2m), (3), (4) and (5), 632.895 (5) and (9) to (13), 632.896 and 632.897
17 (10) and chs. 609, 630, 635, 645 and 646, but the sponsoring association shall:

18 **SECTION 6.** 609.89 of the statutes is created to read:

19 **609.89 Written reason for coverage denial.** Limited service health
20 organizations, preferred provider plans and managed care plans are subject to s.
21 631.17.

22 **SECTION 7.** 609.90 of the statutes is created to read:

23 **609.90 Restrictions related to domestic abuse.** Limited service health
24 organizations, preferred provider plans and managed care plans are subject to s.
25 631.95.

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1 **SECTION 8.** 631.17 of the statutes is created to read:

2 **631.17 Written reason for coverage denial.** An insurer that denies
3 coverage under an individual or group insurance policy or a certificate of group
4 insurance shall advise the applicant or proposed insured in writing of the reasons for
5 the denial.

6 **SECTION 9.** 631.95 of the statutes is created to read:

7 **631.95 Restrictions on insurance practices; domestic abuse. (1)**

8 DEFINITIONS. In this section:

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

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

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

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

14 (a) Refuse to provide or renew coverage to a person, or cancel a person’s
15 coverage, under an individual or group insurance policy or a certificate of group
16 insurance on the basis that the person has been, or the insurer has reason to believe
17 that the person is, a victim of abuse or domestic abuse or that a member of the
18 person’s family has been, or the insurer has reason to believe that a member of the
19 person’s family is, a victim of abuse or domestic abuse.

20 (b) Refuse to provide or renew coverage to an employer or other group, or cancel
21 an employer’s or other group’s coverage, under a group insurance policy on the basis
22 that an employe or other group member has been, or the insurer has reason to believe
23 that an employe or other group member is, a victim of abuse or domestic abuse or that
24 a member of an employe’s or other group member’s family has been, or the insurer

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

3 (c) Use as a factor in the determination of rates or any other aspect of insurance
4 coverage under an individual or group insurance policy or a certificate of group
5 insurance the knowledge or suspicion that a person or an employe or other group
6 member has been or is a victim of abuse or domestic abuse or that a member of the
7 person's or an employe's or other group member's family has been or is a victim of
8 abuse or domestic abuse.

9 (d) Under an individual or group disability insurance policy or a certificate of
10 group disability insurance, exclude or limit coverage of, or deny a claim for, health
11 care services or items related to the treatment of injury or disease resulting from
12 abuse or domestic abuse on the basis that a person or an employe or other group
13 member has been, or the insurer has reason to believe that a person or an employe
14 or other group member is, a victim of abuse or domestic abuse or that a member of
15 the person's or an employe's or other group member's family has been, or the insurer
16 has reason to believe that a member of the person's or an employe's or other group
17 member's family is, a victim of abuse or domestic abuse.

18 (e) Under an individual or group life insurance policy or a certificate of group
19 life insurance, deny or limit benefits in the event that the death of the person whose
20 life is insured results from abuse or domestic abuse on the basis that the person
21 whose life is insured has been, or the insurer has reason to believe that the person
22 whose life is insured is, a victim of abuse or domestic abuse or that a member of the
23 family of the person whose life is insured has been, or the insurer has reason to
24 believe that a member of the family of the person whose life is insured is, a victim
25 of abuse or domestic abuse.

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1 (f) Under property insurance coverage that excludes coverage for loss or
2 damage to property resulting from intentional acts, deny payment to an insured for
3 a claim based on property loss or damage resulting from an act, or pattern, of abuse
4 or domestic abuse if that insured did not cooperate in or contribute to the creation
5 of the loss or damage and if the person who committed the act or acts that caused the
6 loss or damage is criminally prosecuted for the act or acts. Payment to the innocent
7 insured may be limited in accordance with his or her ownership interest in the
8 property or reduced by payments to a mortgagee or other holder of a secured interest.

9 **(3) EXCEPTIONS AND QUALIFICATIONS RELATED TO PROHIBITIONS.** (a) *Disability*
10 *insurance.* In establishing premiums for an individual or group disability insurance
11 policy or a certificate of group disability insurance, an insurer may inquire about a
12 person's existing medical condition and, based on the opinion of a qualified actuary,
13 as defined in s. 623.06 (1c), use information related to a person's existing medical
14 condition, regardless of whether that condition is or may have been caused by abuse
15 or domestic abuse.

16 (b) *Life insurance.* With respect to an individual or group life insurance policy
17 or a certificate of group life insurance, an insurer may, on the basis of information
18 in medical, law enforcement or court records, or on the basis of information provided
19 by the insured, policyholder or applicant for insurance, do any of the following:

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

22 2. Refuse to issue such a policy or certificate that names as a beneficiary a
23 person who is or was, or who the insurer has reason to believe is or was, a perpetrator
24 of abuse or domestic abuse against the person who is to be the insured under the
25 policy.

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

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

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

9 6. For purposes of underwriting; administering a claim under; or determining
10 a person's eligibility for coverage, a benefit or payment under; such a policy or
11 certificate; or for purposes of servicing such a policy or certificate or an application
12 for such a policy or certificate; inquire about and use information related to a person's
13 medical history or existing medical condition, regardless of whether that condition
14 is or may have been caused by abuse or domestic abuse. Any adverse underwriting
15 decision based on a person's medical history or medical condition must be made in
16 conformity with sound actuarial principles or otherwise supported by actual or
17 reasonably anticipated experience.

18 (c) *Disability income or long-term care insurance.* With respect to an individual
19 or group disability income or long-term care insurance policy or a certificate of group
20 disability income or long-term care insurance, an insurer may, on the basis of
21 information in medical, law enforcement or court records, or on the basis of
22 information provided by the insured, policyholder or applicant for insurance, do any
23 of the following:

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

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

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

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

18 **(4) IMMUNITY FOR INSURERS.** An insurer is immune from any civil or criminal
19 liability for any action taken under sub. (3) or for the death of, or injury to, an insured
20 that results from abuse or domestic abuse.

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

24 1. Whether an insured or applicant for insurance or a member of the insured's
25 or applicant's family, or whether an employe or other group member of an insured

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1 or applicant for insurance or a member of the employe's or other group member's
2 family, is or has been, or is with reason believed by the person employed by or
3 contracting with the insurer to be or to have been, a victim of abuse or domestic
4 abuse.

5 2. Whether an insured or applicant for insurance, or whether an employe or
6 other group member of an insured or applicant for insurance, is a family member or
7 associate of, or in a relationship with, a person who is or has been, or who the person
8 employed by or contracting with the insurer has reason to believe is or has been, a
9 victim of abuse or domestic abuse.

10 3. Whether an insured or an applicant for insurance employs a person who is
11 or has been, or who the person employed by or contracting with the insurer has
12 reason to believe is or has been, a victim of abuse or domestic abuse.

13 (b) Except as provided in pars. (c) and (d), a person employed by or contracting
14 with an insurer may not disclose or transfer information related to the telephone
15 number or address or other location of any of the following individuals, if the person
16 knows that the individual is or has been, or has reason to believe that the individual
17 is or has been, a victim of abuse or domestic abuse:

- 18 1. An insured.
- 19 2. An applicant for insurance.
- 20 3. An employe of an insured or of an applicant for insurance.
- 21 4. A group member of an insured or of an applicant for insurance.
- 22 5. A member of the family of any of the individuals listed in subds. 1. to 4.

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

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- 1 1. Is for a purpose related to the direct provision of health care services.
- 2 2. Is for a valid business purpose, including the disclosure or transfer of the
- 3 information to any of the following:
- 4 a. A reinsurer.
- 5 b. A party to a proposed or consummated sale, transfer, merger or consolidation
- 6 of all or part of the business of the insurer.
- 7 c. Medical, underwriting or claims personnel under contract or affiliated with
- 8 the insurer.
- 9 d. An attorney representing the interests of the insurer.
- 10 e. The policyholder or policyholder's assignee as a result of delivery of the
- 11 policy.
- 12 3. Is in response to legal process.
- 13 4. Is required by a court order or an order of an entity with authority to regulate
- 14 insurance, or is otherwise required by law.
- 15 5. Is required or authorized by the commissioner by rule.
- 16 (d) Nothing in this subsection limits or precludes an insured or an applicant
- 17 for insurance, or an employe or other group member of an insured or applicant for
- 18 insurance, from obtaining his or her own insurance records from an insurer.

SECTION 10. Initial applicability.

- 20 (1) This act first applies to all of the following:
- 21 (a) Except as provided in paragraph (b), policies or certificates that are issued,
- 22 renewed or applied for, whichever is appropriate, on the effective date of this
- 23 paragraph.
- 24 (b) Policies or certificates covering employes who are affected by a collective
- 25 bargaining agreement containing provisions inconsistent with this act that are

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1 issued, renewed or applied for, whichever is appropriate, on the earlier of the
2 following:

- 3 1. The day on which the collective bargaining agreement expires.
4 2. The day on which the collective bargaining agreement is extended, modified
5 or renewed.

6 **SECTION 11. Effective date.**

7 (1) This act takes effect on the first day of the 6th month beginning after
8 publication.

9 (END)