

2019 DRAFTING REQUEST

**Bill**

For: **Legislative Fiscal Bureau** Drafter: **tdodge**  
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 Date: **4/1/2020** May Contact:

Same as LRB:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Pg. 18, INS, Item 2: prohibit coverage discrimination based on COVID-19

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 4/1/2020				
/P1		aernstr 4/1/2020	mbarman 4/1/2020		

FE Sent For: **<END>**



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT to amend** 40.51 (8), 40.51 (8m), 66.0137 (4), 120.13 (2) (g), 185.983 (1)  
2             (intro.), 625.12 (2) and 628.34 (3) (a); and **to create** 609.846 and 632.729 of the  
3             statutes; **relating to:** prohibiting coverage discrimination based on  
4             COVID-19.

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*Analysis by the Legislative Reference Bureau*

**INSURANCE**

***Prohibiting coverage discrimination based on COVID-19 diagnosis.***

This bill prohibits insurers that offer an individual or group health benefit plan, pharmacy benefit managers, or self-insured governmental health plans from doing any of the following based on a current or past diagnosis or suspected diagnosis of COVID-19: establishing rules for the eligibility of any individual, employer, or group to enroll or remain enrolled in a plan or for the renewal of coverage under the plan; cancelling coverage during a contract term; setting rates for coverage; or refusing to grant a grace period for payment of a premium that would generally be granted.

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

5             **SECTION 1.** 40.51 (8) of the statutes is amended to read:

1           40.51 (8) Every health care coverage plan offered by the state under sub. (6)  
2 shall comply with ss. 631.89, 631.90, 631.93 (2), 631.95, 632.72 (2), 632.729, 632.746  
3 (1) to (8) and (10), 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853,  
4 632.855, 632.867, 632.87 (3) to (6), 632.885, 632.89, 632.895 (5m) and (8) to (17), and  
5 632.896.

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. 631.95, 632.729, 632.746 (1) to (8) and (10),  
9 632.747, 632.748, 632.798, 632.83, 632.835, 632.85, 632.853, 632.855, 632.867,  
10 632.885, 632.89, and 632.895 (11) to (17).

11           **SECTION 3.** 66.0137 (4) of the statutes is amended to read:

12           66.0137 (4) SELF-INSURED HEALTH PLANS. If a city, including a 1st class city, or  
13 a village provides health care benefits under its home rule power, or if a town  
14 provides health care benefits, to its officers and employees on a self-insured basis,  
15 the self-insured plan shall comply with ss. 49.493 (3) (d), 631.89, 631.90, 631.93 (2),  
16 632.729, 632.746 (10) (a) 2. and (b) 2., 632.747 (3), 632.798, 632.85, 632.853, 632.855,  
17 632.867, 632.87 (4) to (6), 632.885, 632.89, 632.895 (9) to (17), 632.896, and 767.513  
18 (4).

19           **SECTION 4.** 120.13 (2) (g) of the statutes is amended to read:

20           120.13 (2) (g) Every self-insured plan under par. (b) shall comply with ss.  
21 49.493 (3) (d), 631.89, 631.90, 631.93 (2), 632.729, 632.746 (10) (a) 2. and (b) 2.,  
22 632.747 (3), 632.798, 632.85, 632.853, 632.855, 632.867, 632.87 (4) to (6), 632.885,  
23 632.89, 632.895 (9) to (17), 632.896, and 767.513 (4).

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

1           185.983 (1) (intro.) Every voluntary nonprofit health care plan operated by a  
2 cooperative association organized under s. 185.981 shall be exempt from chs. 600 to  
3 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41, 601.42, 601.43, 601.44,  
4 601.45, 611.26, 611.67, 619.04, 623.11, 623.12, 628.34 (10), 631.17, 631.89, 631.93,  
5 631.95, 632.72 (2), 632.729, 632.745 to 632.749, 632.775, 632.79, 632.795, 632.798,  
6 632.85, 632.853, 632.855, 632.867, 632.87 (2) to (6), 632.885, 632.89, 632.895 (5) and  
7 (8) to (17), 632.896, and 632.897 (10) and chs. 609, 620, 630, 635, 645, and 646, but  
8 the sponsoring association shall:

9           **SECTION 6.** 609.846 of the statutes is created to read:

10           **609.846 Discrimination based on COVID-19 prohibited.** Limited service  
11 health organizations, preferred provider plans, and defined network plans are  
12 subject to s. 632.729.

13           **SECTION 7.** 625.12 (2) of the statutes is amended to read:

14           625.12 (2) CLASSIFICATION. ~~Risks~~ Except as provided in s. 632.729, risks may  
15 be classified in any reasonable way for the establishment of rates and minimum  
16 premiums, except that no classifications may be based on race, color, creed or  
17 national origin, and classifications in automobile insurance may not be based on  
18 physical condition or developmental disability as defined in s. 51.01 (5). Subject to  
19 ~~s. ss. 632.365 and 632.729~~, rates thus produced may be modified for individual risks  
20 in accordance with rating plans or schedules that establish reasonable standards for  
21 measuring probable variations in hazards, expenses, or both. Rates may also be  
22 modified for individual risks under s. 625.13 (2).

23           **SECTION 8.** 628.34 (3) (a) of the statutes is amended to read:

24           628.34 (3) (a) No insurer may unfairly discriminate among policyholders by  
25 charging different premiums or by offering different terms of coverage except on the

1 basis of classifications related to the nature and the degree of the risk covered or the  
2 expenses involved, subject to ss. 632.365, 632.729, 632.746 and 632.748. Rates are  
3 not unfairly discriminatory if they are averaged broadly among persons insured  
4 under a group, blanket or franchise policy, and terms are not unfairly discriminatory  
5 merely because they are more favorable than in a similar individual policy.

6 **SECTION 9.** 632.729 of the statutes is created to read:

7 **632.729 Prohibiting discrimination based on COVID-19. (1)**

8 **DEFINITIONS.** In this section:

9 (a) "COVID-19" means an infection caused by the SARS-CoV-2 coronavirus.

10 (b) "Health benefit plan" has the meaning given in s. 632.745 (11).

11 (c) "Pharmacy benefit manager" has the meaning given in s. 632.865 (1) (c).

12 (d) "Self-insured health plan" has the meaning given in s. 632.85 (1) (c).

13 **(2) ISSUANCE OR RENEWAL.** (a) An insurer that offers an individual or group  
14 health benefit plan, a pharmacy benefit manager, or a self-insured health plan may  
15 not establish rules for the eligibility of any individual to enroll, for the continued  
16 eligibility of any individual to remain enrolled, or for the renewal of coverage under  
17 the plan based on a current or past diagnosis or suspected diagnosis of COVID-19.

18 (b) An insurer that offers a group health benefit plan, a pharmacy benefit  
19 manager, or a self-insured health plan may not establish rules for the eligibility of  
20 any employer or other group to enroll, for the continued eligibility of any employer  
21 or group to remain enrolled, or for the renewal of an employer's or group's coverage  
22 under the plan based on a current or past diagnosis or suspected diagnosis of  
23 COVID-19 of any employee or other member of the group.

24 **(3) CANCELLATION.** An insurer that offers an individual or group health benefit  
25 plan, a pharmacy benefit manager, or a self-insured health plan may not use as a basis

1 for cancellation of coverage during a contract term a current or past diagnosis of  
2 COVID-19 or suspected diagnosis of COVID-19.

3 (4) RATES. An insurer that offers an individual or group health benefit plan,  
4 a pharmacy benefit manger, or a self-insured health plan may not use as a basis for  
5 setting rates for coverage a current or past diagnosis of COVID-19 or suspected  
6 diagnosis of COVID-19.

7 (5) PREMIUM GRACE PERIOD. An insurer that offers an individual or group health  
8 benefit plan, a pharmacy benefit manger, or a self-insured health plan may not  
9 refuse to grant to an individual, employer, or other group a grace period for the  
10 payment of a premium based on an individual's, employee's, or group member's  
11 current or past diagnosis of COVID-19 or suspected diagnosis of COVID-19 if a  
12 grace period for payment of premium would generally be granted under the plan.

13 (END)