



State of Wisconsin
1997 - 1998 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 456**

March 18, 1998 - Offered by COMMITTEE ON INSURANCE, SECURITIES AND CORPORATE
POLICY.

1 **AN ACT to amend** 40.51 (8), 40.51 (8m), 185.981 (4t) and 185.983 (1) (intro.); and
2 **to create** 631.95 of the statutes; **relating to:** prohibiting certain insurance
3 practices on the basis of domestic abuse.

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

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

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

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

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 and, 632.748 and 632.895 (11) to (13).

4 **SECTION 3.** 185.981 (4t) of the statutes, as affected by 1997 Wisconsin Act 27,
5 section 3133m, is amended to read:

6 185.981 **(4t)** A sickness care plan operated by a cooperative association is
7 subject to ss. 252.14, 631.89, 631.95, 632.72 (2), 632.745 to 632.749, 632.87 (2m), (3),
8 (4) and (5), 632.895 (10) to (13) and 632.897 (10) and chs. 149 and 155.

9 **SECTION 4.** 185.983 (1) (intro.) of the statutes, as affected by 1997 Wisconsin
10 Act 27, section 3134m, is amended to read:

11 185.983 **(1)** (intro.) Every such voluntary nonprofit sickness care plan shall be
12 exempt from chs. 600 to 646, with the exception of ss. 601.04, 601.13, 601.31, 601.41,
13 601.42, 601.43, 601.44, 601.45, 611.67, 619.04, 628.34 (10), 631.89, 631.93, 631.95,
14 632.72 (2), 632.745 to 632.749, 632.775, 632.79, 632.795, 632.87 (2m), (3), (4) and (5),
15 632.895 (5) and (9) to (13), 632.896 and 632.897 (10) and chs. 609, 630, 635, 645 and
16 646, but the sponsoring association shall:

17 **SECTION 5.** 631.95 of the statutes is created to read:

18 **631.95 Restrictions on insurance practices; domestic abuse. (1)**

19 DEFINITIONS. In this section:

20 (a) "Abuse" has the meaning given in s. 813.122 (1) (a).

21 (b) "Disability insurance policy" has the meaning given in s. 632.895 (1) (a).

22 (c) "Domestic abuse" has the meaning given in s. 968.075 (1) (a).

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

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 the person's

1 or an employe's or other group member's family member has been, or the insurer has
2 reason to believe that the person's or an employe's or other group member's family
3 member 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 **(2m)** 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 or, 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.

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 or use information related to a person's existing medical
19 condition, regardless of whether that condition is or may have been caused by abuse
20 or domestic abuse. Any adverse underwriting decision based on a person's medical
21 condition must be made in conformance with sound actuarial principles or otherwise
22 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

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 or 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 **(2r) IMMUNITY FOR LIFE INSURERS.** A life insurer is immune from any civil or
19 criminal liability for any action taken under sub. (2m) (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 **(3) 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.

1 **(4) USE AND DISCLOSURE OF ABUSE INFORMATION.** (a) Except as provided in par.
2 (c) and sub. (2m), no person employed by or contracting with an insurer may use,
3 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 par. (c), a person employed by or contracting with an
24 insurer may not disclose or transfer information related to the telephone number or
25 address or other location of any of the following individuals, if the person knows that

1 the individual has been, or has reason to believe that the individual is, a victim of
2 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.

24 (d) Nothing in this subsection shall be construed as limiting or precluding an
25 insured or an applicant for insurance, or an employe or other group member of an

1 insured or applicant for insurance, from obtaining his or her own insurance records
2 from an insurer.

3 **SECTION 6. Initial applicability.**

4 (1) This act first applies to policies or certificates issued, renewed or applied for
5 on the effective date of this subsection.

6 (END)