

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 397

Short Title: Conscience Protection/Contraceptive Coverage. (Public)

Sponsors: Representatives Hilton; Blackwood, Cleveland, Frye, Gillespie, McGee, and Starnes.

Referred to: Judiciary I, if favorable, Insurance, if favorable, Health, if favorable, Appropriations.

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE EFFECTIVE CONSCIENCE PROTECTION IN THE INSURANCE LAW PERTAINING TO COVERAGE FOR PRESCRIPTION CONTRACEPTIVE DRUGS OR DEVICES AND FOR OUTPATIENT CONTRACEPTIVE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-3-178 reads as rewritten:

"§ 58-3-178. Coverage for prescription contraceptive drugs or devices and for outpatient contraceptive services; exemption for religious employers.

(a) Except as provided in subsection ~~(e)~~(e1) of this section, every insurer providing a health benefit plan that provides coverage for prescription drugs or devices shall provide coverage for prescription contraceptive drugs or devices. Coverage shall include coverage for the insertion or removal of and any medically necessary examination associated with the use of the prescribed contraceptive drug or device. Except as otherwise provided in this subsection, the same deductibles, coinsurance, and other limitations as apply to prescription drugs or devices covered under the health benefit plan shall apply to coverage for prescribed contraceptive drugs or devices. A health benefit plan may require that the total coinsurance, based on the useful life of the drug or device, be paid in advance for those drugs or devices that are inserted or prescribed and do not have to be refilled on a periodic basis.

(b) Every insurer providing a health benefit plan that provides coverage for outpatient services provided by a health care professional shall provide coverage for outpatient contraceptive services. The same deductibles, coinsurance, and other limitations as apply to outpatient services covered under the health benefit plan shall apply to coverage for outpatient contraceptive services.

(c) As used in this section, the term:

(1) "Health benefit plan" means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. "Health benefit plan" does not mean any plan implemented or administered by the North Carolina Department of Health and Human Services or the United States Department of Health and Human Services, or any successor agency,



- 1 or its representatives. "Health benefit plan" also does not mean any of the
2 following kinds of insurance:
- 3 a. Accident.
 - 4 b. Credit.
 - 5 c. Disability income.
 - 6 d. Long-term care or nursing home care.
 - 7 e. Medicare supplement.
 - 8 f. Specified disease.
 - 9 g. Dental or vision.
 - 10 h. Coverage issued as a supplement to liability insurance.
 - 11 i. Workers' compensation.
 - 12 j. Medical payments under automobile or homeowners.
 - 13 k. Hospital income or indemnity.
 - 14 l. Insurance under which benefits are payable with or without regard to
15 fault and that is statutorily required to be contained in any liability
16 policy or equivalent self-insurance.
 - 17 m. Short-term limited duration health insurance policies as defined in
18 Part 144 of Title 45 of the Code of Federal Regulations.
- 19 (2) "Insurer" includes an insurance company subject to this Chapter, a service
20 corporation organized under Article 65 of this Chapter, a health maintenance
21 organization organized under Article 67 of this Chapter, and a multiple
22 employer welfare arrangement subject to Article 49 of this Chapter.
- 23 (3) "Outpatient contraceptive services" means consultations, examinations,
24 procedures, and medical services provided on an outpatient basis and related
25 to the use of contraceptive methods to prevent pregnancy. The term
26 "outpatient contraceptive services" does not include medical services, drugs,
27 or devices used in a manner to induce an abortion.
- 28 (4) "Prescribed contraceptive drugs or devices" means drugs or devices that
29 prevent pregnancy and that are approved by the United States Food and
30 Drug Administration for use as contraceptives and obtained under a
31 prescription written by a health care provider authorized to prescribe
32 medications under the laws of this State. Prescription drugs or devices
33 required to be covered under this section shall not include:
- 34 a. The prescription drug known as "RU-486" or any "equivalent drug
35 product" as defined in G.S. 90-85.27(1).
 - 36 b. The prescription drug marketed under the name "Preven" or any
37 "equivalent drug product" as defined in G.S. 90-85.27(1).
 - 38 c. Any drug or device that interferes with the development of an
39 embryo after fertilization.
- 40 (d) A health benefit plan subject to this section shall not do any of the following:
- 41 (1) Deny eligibility or continued eligibility to enroll or to renew coverage under
42 the terms of the health benefit plan, solely for the purpose of avoiding the
43 requirements of this section.
 - 44 (2) Provide monetary payments or rebates to an individual participant or
45 beneficiary to encourage the individual participant or beneficiary to accept
46 less than the minimum protections available under this section.
 - 47 (3) Penalize or otherwise reduce or limit the reimbursement of an attending
48 provider because the provider prescribed contraceptive drugs or devices, or
49 provided contraceptive services in accordance with this section.

1 (4) Provide incentives, monetary or otherwise, to an attending provider to
2 induce the provider to withhold from an individual participant or beneficiary
3 contraceptive drugs, devices, or services.

4 (e) ~~A religious employer may request an insurer providing a health benefit plan to
5 provide to the religious employer a health benefit plan that excludes coverage for prescription
6 contraceptive drugs or devices that are contrary to the employer's religious tenets. Upon
7 request, the insurer shall provide the requested health benefit plan. An insurer providing a
8 health benefit plan requested by a religious employer pursuant to this section shall provide
9 written notice to each person covered under the health benefit plan that prescription
10 contraceptive drugs or devices are excluded from coverage pursuant to this section at the
11 request of the employer. The notice shall appear, in not less than 10-point type, in the health
12 benefit plan, application, and sales brochure for the health benefit plan. Nothing in this
13 subsection authorizes a health benefit plan to exclude coverage for prescription drugs ordered
14 by a health care provider with prescriptive authority for reasons other than contraceptive
15 purposes, or for prescription contraception that is necessary to preserve the life or health of a
16 person covered under the plan. As used in this subsection, the term "religious employer" means
17 an entity for which all of the following are true:~~

- 18 (1) ~~The entity is organized and operated for religious purposes and is tax exempt
19 under section 501(c)(3) of the U.S. Internal Revenue Code.~~
- 20 (2) ~~The inculcation of religious values is one of the primary purposes of the
21 entity.~~
- 22 (3) ~~The entity employs primarily persons who share the religious tenets of the
23 entity.~~

24 (e1) Nothing in this section shall be construed to require a health insurer, employer, or
25 association to provide prescription contraceptive coverage or outpatient contraceptive services
26 coverage in a health insurance policy when the provision of the coverage is contrary to the
27 religious beliefs or moral convictions of the insurer, employers, association, or insured
28 individual. When a health insurer that provides a health benefit plan has received from an
29 employer or association certification that the provision of prescription contraceptive drugs and
30 services as described in this section is contrary to the religious beliefs or moral convictions of
31 the employer, organization, association, or employed individual, that insurer shall provide a
32 plan and charge appropriate premiums without the inconsistent coverage. An insurer providing
33 a health benefit plan in response to the certification shall provide reasonable notice that
34 contraception is not covered in the health benefit plan. This notice shall be included in any
35 application and sales brochure for the health benefit plan."

36 **SECTION 2.** This act is effective when it becomes law.
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