

1 A bill to be entitled
2 An act relating to prescription contraceptive
3 coverage; creating s. 627.64197, F.S., and amending s.
4 641.31, F.S.; defining terms; requiring health
5 insurance policies and health maintenance contracts,
6 respectively, to provide coverage for certain
7 contraceptive drugs, devices, products, and procedures
8 without imposing cost-sharing requirements; providing
9 applicability; specifying additional requirements for
10 such coverage; prohibiting such policies and contracts
11 from imposing restrictions or delays on the required
12 coverage; providing an exemption from coverage
13 requirements for religious employers; requiring
14 religious employers who are exempt to provide notice
15 to their employees and prospective employees in a
16 specified manner; providing that a policy or contract
17 established or maintained by an eligible organization
18 complies with coverage requirements if the
19 organization provides a self-certification to issuers
20 providing coverage or a specified notice to the
21 Department of Health; specifying requirements for
22 issuers receiving the self-certification or notice;
23 prohibiting issuers, with respect to payments for
24 contraceptive items and services, from imposing cost-
25 sharing requirements on certain contraceptive items or

26 | services or imposing charges on certain entities;
 27 | providing construction; requiring the department to
 28 | adopt rules; providing an effective date.

30 | Be It Enacted by the Legislature of the State of Florida:

32 | Section 1. Section 627.64197, Florida Statutes, is created
 33 | to read:

34 | 627.64197 Required coverage for prescription
 35 | contraceptives.—

36 | (1) As used in this section, the term:

37 | (a) "Closely held for-profit entity" means an entity to
 38 | which all of the following apply:

39 | 1. It is not a nonprofit entity.

40 | 2. It has no publicly traded ownership interest. For
 41 | purposes of this subparagraph, the term "publicly traded
 42 | ownership interest" means any class of common equity securities
 43 | required to be registered under s. 12 of the Securities Exchange
 44 | Act of 1934, 15 U.S.C. s. 781.

45 | 3. It has more than 50 percent of the value of its
 46 | ownership interest owned directly or indirectly by five or fewer
 47 | individuals, or has an ownership structure that is substantially
 48 | similar. For the purpose of the calculation in this
 49 | subparagraph, the following rules apply:

50 | a. An ownership interest owned by a corporation,

51 partnership, estate, or trust is deemed to be owned
52 proportionately by such entity's shareholders, partners, or
53 beneficiaries. An ownership interest owned by a nonprofit entity
54 is deemed to be owned by a single owner.

55 b. An individual is deemed to own the ownership interests
56 owned, directly or indirectly, by or for his or her family. For
57 purposes of this sub-subparagraph, the term "family" includes
58 only brothers and sisters, including half-brothers and half-
59 sisters; a spouse; ancestors; and lineal descendants.

60 c. If a person holds an option to purchase ownership
61 interests, he or she is deemed to be the owner of the ownership
62 interests.

63 (b) "Eligible organization" means an organization that
64 meets the following criteria:

65 1. The organization opposes providing coverage for some or
66 all of any contraceptive items or services required to be
67 covered under this section on account of religious objections.

68 2.a. The organization is organized as a nonprofit entity
69 and holds itself out as a religious organization; or

70 b. The organization is organized and operates as a closely
71 held for-profit entity, and the organization's highest governing
72 body, such as its board of directors, board of trustees, or
73 owners, if managed directly by its owners, has adopted a
74 resolution or similar action, under the organization's
75 applicable rules of governance and consistent with state law,

76 establishing that it objects to covering some or all
77 contraceptive services on account of the owners' sincerely held
78 religious beliefs.

79 (c) "FDA" means the United States Food and Drug
80 Administration.

81 (d) "Religious employer" means an employer that is
82 organized and operates as a nonprofit entity and that is
83 referred to in s. 6033(a)(3)(A)(i) or (iii) of the Internal
84 Revenue Code of 1986, as amended.

85 (2) A health insurance policy issued, amended, delivered,
86 or renewed in this state must provide coverage, without imposing
87 a deductible, coinsurance, a copayment, or any other cost-
88 sharing requirement, for all FDA-approved contraceptive drugs,
89 devices, products, and procedures. This requirement does not
90 apply to contraceptive drugs, devices, or products obtained
91 without a prescription. The following apply:

92 (a) If a therapeutic equivalent of an FDA-approved
93 contraceptive drug, device, or product exists, coverage must
94 include either the original FDA-approved contraceptive drug,
95 device, or product or at least one of its therapeutic
96 equivalents without imposing any cost-sharing requirement.

97 (b) If the covered contraceptive drug, device, or product
98 is deemed medically inadvisable by the covered person's
99 provider, the insurer must defer to the determination and
100 judgment of the attending provider and provide coverage for an

101 alternate prescribed contraceptive drug, device, or product
102 without imposing any cost-sharing requirement.

103 (c) Coverage under this section must include patient
104 education and counseling on contraception without imposing any
105 cost-sharing requirement.

106 (d) Coverage under this section must include, without
107 imposing any cost-sharing requirement, follow-up services
108 related to the drugs, devices, products, and procedures required
109 in this subsection, including, but not limited to, management of
110 side effects, counseling for continued adherence, and device
111 insertion and removal.

112 (e) A health insurance policy subject to this section may
113 not impose any restrictions or delays on the coverage required
114 under this section.

115 (3) A religious employer may be exempted from any
116 requirement to cover contraceptive items and services under this
117 section. A religious employer that is exempt under this
118 subsection must provide its employees and prospective employees
119 reasonable and timely notice of the exemption before enrollment
120 in the plan, listing the contraceptive items and services the
121 employer refuses to cover for religious reasons.

122 (4) (a) A health insurance policy established or maintained
123 by an eligible organization complies with the requirements of
124 subsection (2) to provide contraceptive coverage if the eligible
125 organization provides either a copy of a self-certification to

126 each issuer providing coverage in connection with the plan or a
127 notice to the Department of Health that it is an eligible
128 organization and of its religious objection to coverage for some
129 or all contraceptive items and services.

130 (b) An issuer that receives a copy of the self-
131 certification or notice described in paragraph (a) with respect
132 to a health insurance policy established or maintained by an
133 eligible organization in connection with which the issuer would
134 otherwise provide contraceptive coverage must:

135 1. Expressly exclude contraceptive coverage from the
136 health insurance coverage provided in connection with the health
137 plan; and

138 2. Provide separate payments for any contraceptive items
139 and services required to be covered for plan participants and
140 beneficiaries for so long as they remain enrolled in the plan.

141 (c) With respect to payments for contraceptive items and
142 services, the issuer may not impose any cost-sharing
143 requirements, such as a copayment, coinsurance, or a deductible,
144 on any contraceptive items or services required to be covered
145 without cost-sharing in the plan, or impose any premium, fee, or
146 other charge, or any portion thereof, directly or indirectly, on
147 the eligible organization, the health plan, or plan participants
148 or beneficiaries.

149 (5) This section may not be construed to allow for the
150 exclusion of coverage for contraceptive items and services as

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151 prescribed by a provider, acting within his or her scope of
152 practice, for reasons other than contraceptive purposes, such as
153 decreasing the risk of ovarian cancer or eliminating symptoms of
154 menopause, or for contraception that is necessary to preserve
155 the life or health of an enrollee.

156 (6) The Department of Health shall adopt rules to
157 establish a process for the exemption of religious employers and
158 the accommodation of eligible organizations and to ensure
159 coverage for contraceptive items and services for employees of
160 eligible organizations receiving an accommodation from providing
161 contraceptives based on a religious objection.

162 Section 2. Subsection (45) is added to section 641.31,
163 Florida Statutes, to read:

164 641.31 Health maintenance contracts.—

165 (45) (a) As used in this subsection, the terms "closely
166 held for-profit entity," "eligible organization," "FDA," and
167 "religious employer" have the same meanings as provided in s.
168 627.64197(1).

169 (b) A health maintenance contract entered into in this
170 state must provide coverage, without imposing a deductible,
171 coinsurance, a copayment, or any other cost-sharing requirement,
172 for all FDA-approved contraceptive drugs, devices, products, and
173 procedures. This requirement does not apply to contraceptive
174 drugs, devices, or products obtained without a prescription. The
175 following apply:

176 1. If a therapeutic equivalent of an FDA-approved
177 contraceptive drug, device, or product exists, coverage must
178 include either the original FDA-approved contraceptive drug,
179 device, or product or at least one of its therapeutic
180 equivalents without imposing any cost-sharing requirement.

181 2. If the covered contraceptive drug, device, or product
182 is deemed medically inadvisable by the covered person's
183 provider, the health maintenance organization must defer to the
184 determination and judgment of the attending provider and provide
185 coverage for an alternate prescribed contraceptive drug, device,
186 or product without imposing any cost-sharing requirement.

187 3. Coverage under this subsection must include patient
188 education and counseling on contraception without imposing any
189 cost-sharing requirement.

190 4. Coverage under this subsection must include, without
191 imposing any cost-sharing requirement, follow-up services
192 related to the drugs, devices, products, and procedures required
193 in this subsection, including, but not limited to, management of
194 side effects, counseling for continued adherence, and device
195 insertion and removal.

196 5. A health maintenance contract subject to this
197 subsection may not impose any restrictions or delays on the
198 coverage required under this subsection.

199 (c) A religious employer may be exempted from any
200 requirement to cover contraceptive items and services under this

201 subsection. A religious employer that is exempt under this
202 paragraph must provide its employees and prospective employees
203 reasonable and timely notice of the exemption before enrollment
204 in the plan, listing the contraceptive items and services the
205 employer refuses to cover for religious reasons.

206 (d)1. A health maintenance contract established or
207 maintained by an eligible organization complies with the
208 requirements of paragraph (b) to provide contraceptive coverage
209 if the eligible organization provides either a copy of a self-
210 certification to each issuer providing coverage in connection
211 with the plan or a notice to the Department of Health that it is
212 an eligible organization and of its religious objection to
213 coverage for some or all contraceptive items and services.

214 2. An issuer that receives a copy of the self-
215 certification or notice described in subparagraph 1. with
216 respect to a health maintenance contract established or
217 maintained by an eligible organization in connection with which
218 the issuer would otherwise provide contraceptive coverage must:

219 a. Expressly exclude contraceptive coverage from the
220 coverage provided in connection with the health plan; and

221 b. Provide separate payments for any contraceptive items
222 and services required to be covered for plan participants and
223 beneficiaries for so long as they remain enrolled in the plan.

224 3. With respect to payments for contraceptive items and
225 services, the issuer may not impose any cost-sharing

226 requirements, such as a copayment, coinsurance, or a deductible
227 on any contraceptive items or services required to be covered
228 without cost-sharing in the plan, or impose any premium, fee, or
229 other charge, or any portion thereof, directly or indirectly, on
230 the eligible organization, the health plan, or plan participants
231 or beneficiaries.

232 (e) This subsection may not be construed to allow for the
233 exclusion of coverage for contraceptive items and services as
234 prescribed by a provider, acting within his or her scope of
235 practice, for reasons other than contraceptive purposes, such as
236 decreasing the risk of ovarian cancer or eliminating symptoms of
237 menopause, or for contraception that is necessary to preserve
238 the life or health of an enrollee.

239 (f) The Department of Health shall adopt rules to
240 establish a process for the exemption of religious employers and
241 the accommodation of eligible organizations and to ensure
242 coverage for contraceptive items and services for employees of
243 eligible organizations receiving an accommodation from providing
244 contraceptives based on a religious objection.

245 Section 3. This act shall take effect July 1, 2018.