

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE DRS35125-LN-44 (2/21)**

Short Title: Conscience Protection/Contraceptives. (Public)

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Sponsors: Senator Berger.

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Referred to:

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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 (1) "Health benefit plan" means an accident and health insurance policy or  
2 certificate; a nonprofit hospital or medical service corporation  
3 contract; a health maintenance organization subscriber contract; a plan  
4 provided by a multiple employer welfare arrangement; or a plan  
5 provided by another benefit arrangement, to the extent permitted by  
6 the Employee Retirement Income Security Act of 1974, as amended,  
7 or by any waiver of or other exception to that Act provided under  
8 federal law or regulation. "Health benefit plan" does not mean any  
9 plan implemented or administered by the North Carolina Department  
10 of Health and Human Services or the United States Department of  
11 Health and Human Services, or any successor agency, or its  
12 representatives. "Health benefit plan" also does not mean any of the  
13 following kinds of insurance:  
14 a. Accident.  
15 b. Credit.  
16 c. Disability income.  
17 d. Long-term care or nursing home care.  
18 e. Medicare supplement.  
19 f. Specified disease.  
20 g. Dental or vision.  
21 h. Coverage issued as a supplement to liability insurance.  
22 i. Workers' compensation.  
23 j. Medical payments under automobile or homeowners.  
24 k. Hospital income or indemnity.  
25 l. Insurance under which benefits are payable with or without  
26 regard to fault and that is statutorily required to be contained in  
27 any liability policy or equivalent self-insurance.  
28 m. Short-term limited duration health insurance policies as defined  
29 in Part 144 of Title 45 of the Code of Federal Regulations.
- 30 (2) "Insurer" includes an insurance company subject to this Chapter, a  
31 service corporation organized under Article 65 of this Chapter, a health  
32 maintenance organization organized under Article 67 of this Chapter,  
33 and a multiple employer welfare arrangement subject to Article 49 of  
34 this Chapter.
- 35 (3) "Outpatient contraceptive services" means consultations,  
36 examinations, procedures, and medical services provided on an  
37 outpatient basis and related to the use of contraceptive methods to  
38 prevent pregnancy. The term "outpatient contraceptive services" does  
39 not include medical services, drugs, or devices used in a manner to  
40 induce an abortion.
- 41 (4) "Prescribed contraceptive drugs or devices" means drugs or devices  
42 that prevent pregnancy and that are approved by the United States  
43 Food and Drug Administration for use as contraceptives and obtained  
44 under a prescription written by a health care provider authorized to

1 prescribe medications under the laws of this State. Prescription drugs  
2 or devices required to be covered under this section shall not include:

3 a. The prescription drug known as "RU-486" or any "equivalent  
4 drug product" as defined in G.S. 90-85.27(1).

5 b. The prescription drug marketed under the name "Preven" or any  
6 "equivalent drug product" as defined in G.S. 90-85.27(1).

7 c. Any drug or device that interferes with the development of an  
8 embryo after fertilization.

9 (d) A health benefit plan subject to this section shall not do any of the following:

10 (1) Deny eligibility or continued eligibility to enroll or to renew coverage  
11 under the terms of the health benefit plan, solely for the purpose of  
12 avoiding the requirements of this section.

13 (2) Provide monetary payments or rebates to an individual participant or  
14 beneficiary to encourage the individual participant or beneficiary to  
15 accept less than the minimum protections available under this section.

16 (3) Penalize or otherwise reduce or limit the reimbursement of an  
17 attending provider because the provider prescribed contraceptive drugs  
18 or devices, or provided contraceptive services in accordance with this  
19 section.

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

23 ~~(e) A religious employer may request an insurer providing a health benefit plan~~  
24 ~~to provide to the religious employer a health benefit plan that excludes coverage for~~  
25 ~~prescription contraceptive drugs or devices that are contrary to the employer's religious~~  
26 ~~tenets. Upon request, the insurer shall provide the requested health benefit plan. An~~  
27 ~~insurer providing a health benefit plan requested by a religious employer pursuant to~~  
28 ~~this section shall provide written notice to each person covered under the health benefit~~  
29 ~~plan that prescription contraceptive drugs or devices are excluded from coverage~~  
30 ~~pursuant to this section at the request of the employer. The notice shall appear, in not~~  
31 ~~less than 10 point type, in the health benefit plan, application, and sales brochure for the~~  
32 ~~health benefit plan. Nothing in this subsection authorizes a health benefit plan to~~  
33 ~~exclude coverage for prescription drugs ordered by a health care provider with~~  
34 ~~prescriptive authority for reasons other than contraceptive purposes, or for prescription~~  
35 ~~contraception that is necessary to preserve the life or health of a person covered under~~  
36 ~~the plan. As used in this subsection, the term "religious employer" means an entity for~~  
37 ~~which all of the following are true:~~

38 (1) ~~The entity is organized and operated for religious purposes and is tax~~  
39 ~~exempt under section 501(c)(3) of the U.S. Internal Revenue Code.~~

40 (2) ~~The inculcation of religious values is one of the primary purposes of~~  
41 ~~the entity.~~

42 (3) ~~The entity employs primarily persons who share the religious tenets of~~  
43 ~~the entity. (1999-231, s. 1; 1999-456, s. 15(a).)~~

1       (e1) Nothing in this section shall be construed to require a health insurer,  
2 employer, or association to provide prescription contraceptive coverage or outpatient  
3 contraceptive services coverage in a health insurance policy when the provision of the  
4 coverage is contrary to the religious beliefs or moral convictions of the insurer,  
5 employer, association, or insured individual. When a health insurer that provides a  
6 health benefit plan has received from an employer or association certification that the  
7 provision of prescription contraceptive drugs and services as described in this section is  
8 contrary to the religious beliefs or moral convictions of the employer, organization,  
9 association, or employed individual, that insurer shall provide a plan and charge  
10 appropriate premiums without the inconsistent coverage. An insurer providing a health  
11 benefit plan in response to the certification shall provide reasonable notice that  
12 contraception is not covered in the health benefit plan. This notice shall be included in  
13 any application and sales brochure for the health benefit plan."

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