

By Senator Book

32-00323D-18

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

31  
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-

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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-

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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

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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 health  
136 insurance coverage provided in connection with the health plan;  
137 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

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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  
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 establish  
157 a process for the exemption of religious employers and the  
158 accommodation of eligible organizations and to ensure coverage  
159 for contraceptive items and services for employees of eligible  
160 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 held  
166 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

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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 is  
182 deemed medically inadvisable by the covered person's provider,  
183 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 subsection  
197 may not impose any restrictions or delays on the coverage  
198 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

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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-certification  
215 or notice described in subparagraph 1. with respect to a health  
216 maintenance contract established or maintained by an eligible  
217 organization in connection with which the issuer would otherwise  
218 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



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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 establish  
240 a process for the exemption of religious employers and the  
241 accommodation of eligible organizations and to ensure coverage  
242 for contraceptive items and services for employees of eligible  
243 organizations receiving an accommodation from providing  
244 contraceptives based on a religious objection.

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