

SENATE BILL 1142

By Kyle

AN ACT to amend Tennessee Code Annotated, Title 56;
Title 63 and Title 68, relative to contraception.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Comprehensive Contraception Coverage Act."

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following as a new section:

(a) Every group health insurance policy providing coverage on an expense-incurred basis, every policy or contract issued by a hospital or medical service corporation, every group service contract issued by a health maintenance organization, and every self-insured group arrangement, to the extent not preempted by federal law, that is issued, amended, renewed, effective, or delivered on or after January 1, 2018, shall provide coverage for all of the following services and contraceptive methods:

(1) All federal food and drug administration (FDA)-approved contraceptive drugs, devices, and other products. This includes all FDA-approved over-the-counter contraceptive drugs, devices, and products as prescribed or as otherwise authorized under state or federal law. The following applies to coverage under this subdivision (a)(1):

(A) Where the FDA has approved one (1) or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, a group or blanket policy is not required to include all such therapeutic and pharmaceutical equivalent

versions in its formulary, so long as at least one (1) is included and covered without cost-sharing and in accordance with this section;

(B) If the covered therapeutic and pharmaceutical equivalent versions of a drug, device, or product are not available or are deemed medically inadvisable, an individual or group health insurance policy covered under this subsection (a) shall provide coverage for an alternate therapeutic and pharmaceutical equivalent version of the contraceptive drug, device, or product without cost-sharing;

(C) This coverage must include emergency contraception without cost-sharing when provided pursuant to an ordinary prescription, non-patient specific regimen order, or order under Section 4 of this act and when lawfully provided other than through a prescription or order; and

(D) This coverage must allow for the dispensing of twelve (12) months' worth of a contraceptive at one (1) time;

(2) Voluntary sterilization procedures;

(3) Patient education and counseling on contraception; and

(4) Follow-up services related to the drugs, devices, products, and procedures covered under this subsection (a), including, but not limited to, management of side effects, counseling for continued adherence, and device insertion and removal.

(b) A group health insurance policy covered under subsection (a) must not impose a deductible, coinsurance, copayment, or any other cost-sharing requirement on the coverage provided pursuant to this section.

(c) Except as otherwise authorized under this section, a group health insurance policy shall not impose any restrictions or delays on the coverage required under this section.

(d) Benefits for an enrollee under this section shall be the same for an enrollee's covered spouse or domestic partner and covered nonspouse dependents.

(e)

(1) Notwithstanding any other provision of this section, a religious employer may request a contract without coverage for FDA-approved contraceptive methods that are contrary to the religious employer's religious tenets. If so requested, the contract shall be provided without coverage for contraceptive methods. This subsection (e) shall not deny an enrollee coverage of, and timely access to, contraceptive methods.

(2) For purposes of this section, a "religious employer" is an entity for which each of the following is true:

(A) The inculcation of religious values is the purpose of the entity;

(B) The entity primarily employs persons who share the religious tenets of the entity;

(C) The entity serves primarily persons who share the religious tenets of the entity; and

(D) The entity is a nonprofit organization as described in Section 6033(a)(3)(A)(i) or (iii), of the Internal Revenue Code of 1986, as amended.

(3) Every religious employer that invokes the exemption provided under this subsection (e) shall provide written notice to prospective enrollees prior to enrollment with the plan, listing the contraceptive health care services the employer refuses to cover for religious reasons.

(f)

(1) Where a group health insurance policyholder makes an election not to purchase coverage for contraceptive drugs or devices in accordance with subsection (e), each enrollee covered under the policy issued to that group

health insurance policyholder shall have the right to directly purchase the rider required by this section from the insurer which issued the group policy at the prevailing small group community rate for the rider whether or not the enrollee is part of a small group.

(2) Where a group health insurance policyholder makes an election not to purchase coverage for contraceptive drugs or devices in accordance with subsection (e), the insurer that provides the coverage shall provide written notice to enrollees upon enrollment with the insurer of their right to directly purchase a rider for coverage for the cost of contraceptive drugs or devices. The notice shall also advise the insureds of the additional premium for such coverage.

(g) Nothing in this section shall authorize a group health insurance policy which provides coverage for prescription drugs to exclude coverage for prescription drugs prescribed for reasons other than contraceptive purposes.

SECTION 3. Tennessee Code Annotated, Section 68-34-104, is amended by adding the following as a new subdivision (7).

Family planning services and twelve (12) months of supplies for eligible persons of childbearing age, including children under twenty-one (21) years of age who can be considered sexually active, who desire such services and supplies, and in accordance with the requirements of federal law and regulations and the regulations of the department of health shall be available. No person shall be compelled or coerced to accept such services or supplies.

SECTION 4. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section.

(a) As used in this section, unless context requires otherwise:

(1) "Emergency contraception" means one (1) or more prescription or nonprescription drugs, used separately or in combination, in a dosage and manner for preventing pregnancy when used after intercourse, found safe and effective for that use by the United States food and drug administration, and dispensed or administered for that purpose; and

(2) "Prescriber" means a physician licensed under chapter 6 or 9 of this title, certified nurse practitioner licensed under chapter 7 of this title, or midwife certified under chapter 29 of this title.

(b) This section applies to the administering or dispensing of emergency contraception by a registered professional nurse or the dispensing of emergency contraception by a licensed pharmacist pursuant to a prescription. This section does not apply to administering or dispensing emergency contraception when lawfully done without such a prescription.

(c) The administering or dispensing of emergency contraception by a registered nurse or the dispensing of emergency contraception by a licensed pharmacist shall be done in accordance with professional standards of practice and in accordance with written procedures and protocols agreed to by the registered nurse or licensed pharmacist and the prescriber or a hospital licensed under title 68, chapter 11, that provides gynecological or family planning services.

(d)

(1) When emergency contraception is administered or dispensed, the registered nurse or licensed pharmacist shall provide to the patient written material that includes:

(A) The clinical considerations and recommendations for use of the drug;

- (B) The appropriate method for using the drug;
- (C) Information on the importance of follow-up health care;
- (D) Information on the health risks and other dangers of unprotected intercourse; and
- (E) Referral information relating to health care and services relating to sexual abuse and domestic violence.

(2) Such written material shall be developed or approved by the commissioner of health in consultation with the American College of Obstetricians and Gynecologists.

SECTION 5. For rule-making purposes, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2018. This act shall apply to policies or contracts entered into, issued, renewed, or delivered on or after January 1, 2018.