



**AN ACT CONCERNING PATIENT RIGHTS AND MANAGED CARE  
SUBCONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) (a) Any managed care  
2 organization, as defined in section 38a-478 of the general statutes, that  
3 contracts with a utilization review company, as defined in section 38a-  
4 226 of the general statutes, to provide services on behalf of the  
5 managed care organization, shall be liable for decisions made by such  
6 utilization review company. All rights of appeal or causes of action  
7 provided to an enrollee by a managed care organization shall also be  
8 available to an enrollee aggrieved by actions of a utilization review  
9 company that provides services on behalf of such managed care  
10 organization, and an enrollee may proceed directly against the  
11 managed care organization to contest the actions of such utilization  
12 review company.

13 (b) No utilization review company may establish any terms,  
14 conditions or requirements for access, diagnosis or treatment that are  
15 different from the terms, conditions or requirements for access,  
16 diagnosis or treatment in the managed care organization's plan.

17 Sec. 2. Section 38a-815 of the general statutes is repealed and the  
18 following is substituted in lieu thereof (*Effective October 1, 2003*):

19 No person shall engage in this state in any trade practice which is

20 defined in section 38a-816 as, or determined pursuant to sections 38a-  
21 817 and 38a-818 to be, an unfair method of competition or an unfair or  
22 deceptive act or practice in the business of insurance, nor shall any  
23 domestic insurance company engage outside of this state in any act or  
24 practice defined in subsections (1) to (12), inclusive, of section 38a-816.  
25 The commissioner [shall have power to] may examine the affairs of  
26 every person engaged in the business of insurance in this state in order  
27 to determine whether such person has been or is engaged in any unfair  
28 method of competition or in any unfair or deceptive act or practice  
29 prohibited by sections 38a-815 to 38a-819, inclusive. When used in said  
30 sections, (1) "person" means any individual, corporation, limited  
31 liability company, association, partnership, reciprocal exchange,  
32 interinsurer, Lloyd's insurer, fraternal benefit society and any other  
33 legal entity engaged in the business of insurance, including producers  
34 and adjusters, (2) "the business of insurance" includes, but is not  
35 limited to, business conducted by a utilization review company, and  
36 (3) "utilization review company" has the same meaning as set forth in  
37 section 38a-226.

38 Sec. 3. (NEW) (*Effective October 1, 2003*) The Insurance  
39 Commissioner shall adopt regulations, in accordance with chapter 54  
40 of the general statutes, to establish minimum capital and minimum  
41 surplus requirements for any utilization review company, as defined  
42 in section 38a-226 of the general statutes, that assumes from an insurer  
43 or health care center some or all of the risk to pay health insurance  
44 claims with respect to certain enrollees. Such requirements shall be  
45 similar to the requirements for insurers as set out in section 38a-72 of  
46 the general statutes.

47 Sec. 4. (NEW) (*Effective October 1, 2003*) (a) Every managed care  
48 organization, as defined in section 38a-478 of the general statutes, that  
49 contracts with a utilization review company, as defined in section 38a-  
50 226 of the general statutes, shall include in its contracts and  
51 agreements with such utilization review company, a provision that the  
52 utilization review company will include in all contracts between the  
53 utilization review company and participating health care providers, a

54 provision transferring and assigning contracts between the utilization  
55 review company and participating health care providers to the  
56 managed care organization for the provision of future services by  
57 participating health care providers to enrollees, at the discretion of the  
58 managed care organization, in the event the utilization review  
59 company fails to make payments previously authorized by such  
60 utilization review company, or becomes insolvent.

61 (b) Whenever the commissioner determines that (1) (A) a utilization  
62 review company has violated subdivision (15) of section 38a-816 of the  
63 general statutes, (B) the time period set forth in said subdivision (15)  
64 has elapsed, and (C) there has been a further thirty-day period of a  
65 pattern of nonpayment by the utilization review company of  
66 authorized claims, or (2) the utilization review company is insolvent,  
67 the commissioner, without notice and before applying to the court for  
68 any order, forthwith shall take possession of the capital reserves and  
69 any letters of credit or performance bonds of such utilization review  
70 company. The commissioner shall transfer such capital reserves, letters  
71 of credit and performance bonds to the managed care organization  
72 that contracted with the utilization review company to provide  
73 services on behalf of the managed care organization. The managed  
74 care organization shall make payments previously authorized by the  
75 utilization review company out of such reserves, letters of credit and  
76 performance bonds, and shall be liable for any such payments that  
77 exceed the amount of such reserves, letters of credit and bonds.

78 Sec. 5. (NEW) (*Effective October 1, 2003*) (a) Complaints regarding  
79 acts or practices of a utilization review company may be made by an  
80 enrollee, subscriber or provider to the Insurance Commissioner, the  
81 Office of the Managed Care Ombudsman or to the Attorney General.  
82 Such commissioner, office and Attorney General shall each compile a  
83 list of complaints received and, on a monthly basis, send each list to  
84 the other two entities, except the names of complainants shall not be  
85 disclosed if such disclosure would violate the provisions of section 4-  
86 61dd or 38a-1045 of the general statutes.

87 (b) If such lists of complaints indicate that a utilization review  
88 company may have engaged in a pattern or practice that may be in  
89 violation of sections 38a-226 to 38a-226d, inclusive, of the general  
90 statutes, or sections 38a-815 to 38a-819, inclusive, of the general  
91 statutes, as amended by this act, the Attorney General may investigate  
92 and compel discovery for the purposes of such investigation regarding  
93 such utilization review company. The Attorney General may refer the  
94 results of such investigation to the Insurance Commissioner for  
95 appropriate administrative remedies, or may bring an action in the  
96 superior court for the judicial district of Hartford to enjoin any such act  
97 or practice and to recover a civil penalty as provided in subsection (c)  
98 of this section.

99 (c) Any person found, pursuant to an action brought by the  
100 Attorney General pursuant to subsection (b) of this section, to have  
101 violated any provision of sections 38a-226 to 38a-226d, inclusive, of the  
102 general statutes, or to have engaged in an unfair method of  
103 competition or an unfair or deceptive act or practice in the business of  
104 insurance shall be liable for one or both of the following: (1) Payment  
105 of a monetary penalty of not more than one thousand dollars for each  
106 and every act or violation, but not to exceed an aggregate penalty of  
107 ten thousand dollars unless the person knew or reasonably should  
108 have known that the person was in violation of section 38a-815 of the  
109 general statutes, as amended by this act, or section 38a-816 of the  
110 general statutes, in which case the penalty shall be not more than five  
111 thousand dollars for each and every act or violation, but not to exceed  
112 an aggregate penalty of fifty thousand dollars in any six-month period;  
113 and (2) restitution of any sums shown to have been obtained in  
114 violation of any of the provisions of sections 38a-226 to 38a-226d,  
115 inclusive, of the general statutes, sections 38a-815 to 38a-819, inclusive,  
116 of the general statutes, as amended by this act, or any regulation  
117 implementing the provisions of said sections.

118 (d) Any enrollee, subscriber or provider who is aggrieved by any  
119 utilization review company that has been engaged or is engaging in  
120 any practice or act defined in section 38a-816 of the general statutes as

121 an unfair method of competition or an unfair or deceptive act or  
122 practice in the business of insurance in violation of sections 38a-815 to  
123 38a-819, inclusive, of the general statutes, as amended by this act, may  
124 bring an action in the superior court, and the court may, in its  
125 discretion, award restitution of any sums shown to have been obtained  
126 in violation of any of the provisions of said sections or any regulation  
127 adopted pursuant to said sections, costs and reasonable attorneys' fees,  
128 damages and, in addition to damages or in lieu of damages, injunctive  
129 or other equitable relief.

130 Sec. 6. (NEW) (*Effective October 1, 2003*) No health insurer, health  
131 care center or utilization review company, as defined in section 38a-  
132 226 of the general statutes, shall take or threaten to take any health  
133 insurance or personnel action against any enrollee, provider or  
134 employee in retaliation for such enrollee, provider or employee (1)  
135 disclosing information to the Insurance Commissioner or Attorney  
136 General concerning any practice defined in section 38a-816 of the  
137 general statutes as an unfair method of competition or an unfair and  
138 deceptive act or practice in the business of insurance, (2) filing a  
139 complaint with the Office of the Managed Care Ombudsman, or (3)  
140 filing an action under subsection (d) of section 5 of this act. Any  
141 enrollee, provider or employee who is aggrieved by a violation of this  
142 section may bring a civil action in the superior court to recover  
143 damages and attorneys' fees and costs.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>

**PH**            *Joint Favorable Subst.*