



General Assembly

Amendment

January Session, 2007

LCO No. 7649

SB0007407649SD0

Offered by:

SEN. CRISCO, 17th Dist.

REP. O'CONNOR, 35th Dist.

To: Senate Bill No. 74

File No. 236

Cal. No. 244

"AN ACT CONCERNING OVERSIGHT OF PHARMACY BENEFIT MANAGEMENT PLANS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective January 1, 2008*) As used in this section
4 and sections 2 to 8, inclusive, of this act:

5 (1) "Commissioner" means the Insurance Commissioner;

6 (2) "Department" means the Insurance Department;

7 (3) "Drug" means drug, as defined in section 21a-92 of the general
8 statutes;

9 (4) "Person" means person, as defined in section 38a-1 of the general
10 statutes;

11 (5) "Pharmacist services" includes (A) drug therapy and other

12 patient care services provided by a licensed pharmacist intended to
13 achieve outcomes related to the cure or prevention of a disease,
14 elimination or reduction of a patient's symptoms, and (B) education or
15 intervention by a licensed pharmacist intended to arrest or slow a
16 disease process;

17 (6) "Pharmacist" means an individual licensed to practice pharmacy
18 under section 20-590, 20-591, 20-592 or 20-593 of the general statutes,
19 and who is thereby recognized as a health care provider by the state of
20 Connecticut;

21 (7) "Pharmacy" means a place of business where drugs may be sold
22 at retail and for which a pharmacy license has been issued to an
23 applicant pursuant to section 20-594 of the general statutes; and

24 (8) "Pharmacy benefits manager" or "manager" means any person
25 that administers the prescription drug, prescription device, pharmacist
26 services or prescription drug and device and pharmacist services
27 portion of a health benefit plan on behalf of plan sponsors such as self-
28 insured employers, insurance companies, labor unions and health care
29 centers.

30 Sec. 2. (NEW) (*Effective January 1, 2008*) (a) Except as provided in
31 subsection (d) of this section, no person shall act as a pharmacy
32 benefits manager in this state without first obtaining a certificate of
33 registration from the commissioner.

34 (b) Any person seeking a certificate of registration shall apply to the
35 commissioner, in writing, on a form provided by the commissioner.
36 The application form shall state (1) the name, address, official position
37 and professional qualifications of each individual responsible for the
38 conduct of the affairs of the pharmacy benefits manager, including all
39 members of the board of directors, board of trustees, executive
40 committee, other governing board or committee, the principal officers
41 in the case of a corporation, the partners or members in the case of a
42 partnership or association and any other person who exercises control
43 or influence over the affairs of the pharmacy benefits manager, and (2)

44 the name and address of the applicant's agent for service of process in
45 this state.

46 (c) Each application for a certificate of registration shall be
47 accompanied by (1) a nonrefundable fee of fifty dollars, and (2)
48 evidence of a surety bond in an amount equivalent to ten per cent of
49 one month of claims in this state over a twelve-month average, except
50 that such bond shall not be less than twenty-five thousand dollars or
51 more than one million dollars.

52 (d) Any pharmacy benefits manager operating as a line of business
53 or affiliate of a health insurer, health care center, hospital service
54 corporation, medical service corporation or fraternal benefit society
55 licensed in this state or any affiliate of such health insurer, health care
56 center, hospital service corporation, medical service corporation or
57 fraternal benefit society shall not be required to obtain a certificate of
58 registration. Such health insurer, health care center, hospital service
59 corporation, medical service corporation or fraternal benefit society
60 shall notify the commissioner annually, in writing, on a form provided
61 by the commissioner, that it is affiliated with or operating a business as
62 a pharmacy benefits manager.

63 (e) Any person acting as a pharmacy benefits manager on January 1,
64 2008, and required to obtain a certificate of registration under
65 subsection (a) of this section, shall obtain a certificate of registration
66 from the commissioner not later than April 1, 2008, in order to
67 continue to do business in this state.

68 Sec. 3. (NEW) (*Effective January 1, 2008*) (a) Upon receipt of a
69 completed application, evidence of a surety bond and fee, the
70 commissioner shall: (1) Issue and deliver to the applicant a certificate
71 of registration; or (2) refuse to issue the certificate.

72 (b) The commissioner may suspend, revoke or refuse to issue or
73 renew any certificate of registration for: (1) Conduct of a character
74 likely to mislead, deceive or defraud the public or the commissioner;
75 (2) unfair or deceptive business practices; or (3) nonpayment of the

76 renewal fee.

77 (c) The commissioner shall not suspend or revoke any certificate of
78 registration except upon notice and hearing in accordance with chapter
79 54 of the general statutes.

80 Sec. 4. (NEW) (*Effective January 1, 2008*) (a) Upon refusal to issue or
81 renew a certificate, the commissioner shall notify the applicant of the
82 denial and of the applicant's right to request a hearing within ten days
83 from the date of receipt of the notice of denial.

84 (b) If the applicant requests a hearing within such ten days, the
85 commissioner shall give notice of the grounds for the commissioner's
86 refusal and shall conduct a hearing concerning such refusal in
87 accordance with the provisions of chapter 54 of the general statutes
88 concerning contested cases.

89 (c) If the commissioner's denial of a certificate is sustained after such
90 hearing, an applicant may make a new application not less than one
91 year after the date on which such denial was sustained.

92 Sec. 5. (NEW) (*Effective January 1, 2008*) The commissioner may
93 conduct investigations and hold hearings on any matter under the
94 provisions of sections 1 to 8, inclusive, of this act. The commissioner
95 may issue subpoenas, administer oaths, compel testimony and order
96 the production of books, records and documents. If any person refuses
97 to appear, to testify or to produce any book, record, paper or document
98 when so ordered, upon application of the commissioner, a judge of the
99 Superior Court may make such order as may be appropriate to aid in
100 the enforcement of this section.

101 Sec. 6. (NEW) (*Effective January 1, 2008*) (a) All certificates of
102 registration issued under section 3 of this act shall expire annually on
103 December thirty-first.

104 (b) Any person seeking to renew a certificate of registration shall
105 apply to the commissioner, in writing, on a form provided by the

106 commissioner. The application for renewal shall be in such form as the
107 commissioner prescribes. Such application shall be accompanied by a
108 nonrefundable fee of fifty dollars. Any late payment of such fee shall
109 include a penalty fee of fifty dollars.

110 Sec. 7. (NEW) (*Effective January 1, 2008*) The commissioner shall
111 adopt regulations, in accordance with chapter 54 of the general
112 statutes, to implement the provisions of sections 1 to 8, inclusive, of
113 this act. Such regulations shall specify the contents of the application
114 form and any other form or report required under the provisions of
115 said sections.

116 Sec. 8. (NEW) (*Effective January 1, 2008*) Any person aggrieved by an
117 order or decision of the commissioner under sections 1 to 8, inclusive,
118 of this act may appeal therefrom in accordance with the provisions of
119 section 4-183 of the general statutes.

120 Sec. 9. Subsection (a) of section 38a-11 of the general statutes is
121 repealed and the following is substituted in lieu thereof (*Effective*
122 *January 1, 2008*):

123 (a) The commissioner shall demand and receive the following fees:
124 (1) For the annual fee for each license issued to a domestic insurance
125 company, one hundred dollars; (2) for receiving and filing annual
126 reports of domestic insurance companies, twenty-five dollars; (3) for
127 filing all documents prerequisite to the issuance of a license to an
128 insurance company, one hundred seventy-five dollars, except that the
129 fee for such filings by any health care center, as defined in section 38a-
130 175, shall be one thousand one hundred dollars; (4) for filing any
131 additional paper required by law, fifteen dollars; (5) for each certificate
132 of valuation, organization, reciprocity or compliance, twenty dollars;
133 (6) for each certified copy of a license to a company, twenty dollars; (7)
134 for each certified copy of a report or certificate of condition of a
135 company to be filed in any other state, twenty dollars; (8) for
136 amending a certificate of authority, one hundred dollars; (9) for each
137 license issued to a rating organization, one hundred dollars. In

138 addition, insurance companies shall pay any fees imposed under
139 section 12-211; (10) a filing fee of twenty-five dollars for each initial
140 application for a license made pursuant to section 38a-769; (11) with
141 respect to insurance agents' appointments: (A) A filing fee of twenty-
142 five dollars for each request for any agent appointment, except that no
143 filing fee shall be payable for a request for agent appointment by an
144 insurance company domiciled in a state or foreign country which does
145 not require any filing fee for a request for agent appointment for a
146 Connecticut insurance company; (B) a fee of forty dollars for each
147 appointment issued to an agent of a domestic insurance company or
148 for each appointment continued; and (C) a fee of twenty dollars for
149 each appointment issued to an agent of any other insurance company
150 or for each appointment continued, except that no fee shall be payable
151 for an appointment issued to an agent of an insurance company
152 domiciled in a state or foreign country which does not require any fee
153 for an appointment issued to an agent of a Connecticut insurance
154 company; (12) with respect to insurance producers: (A) An
155 examination fee of seven dollars for each examination taken, except
156 when a testing service is used, the testing service shall pay a fee of
157 seven dollars to the commissioner for each examination taken by an
158 applicant; (B) a fee of forty dollars for each license issued; (C) a fee of
159 forty dollars per year, or any portion thereof, for each license renewed;
160 and (D) a fee of forty dollars for any license renewed under the
161 transitional process established in section 38a-784; (13) with respect to
162 public adjusters: (A) An examination fee of seven dollars for each
163 examination taken, except when a testing service is used, the testing
164 service shall pay a fee of seven dollars to the commissioner for each
165 examination taken by an applicant; and (B) a fee of one hundred
166 twenty-five dollars for each license issued or renewed; (14) with
167 respect to casualty adjusters: (A) An examination fee of ten dollars for
168 each examination taken, except when a testing service is used, the
169 testing service shall pay a fee of ten dollars to the commissioner for
170 each examination taken by an applicant; (B) a fee of forty dollars for
171 each license issued or renewed; and (C) the expense of any
172 examination administered outside the state shall be the responsibility

173 of the entity making the request and such entity shall pay to the
174 commissioner one hundred dollars for such examination and the
175 actual traveling expenses of the examination administrator to
176 administer such examination; (15) with respect to motor vehicle
177 physical damage appraisers: (A) An examination fee of forty dollars
178 for each examination taken, except when a testing service is used, the
179 testing service shall pay a fee of forty dollars to the commissioner for
180 each examination taken by an applicant; (B) a fee of forty dollars for
181 each license issued or renewed; and (C) the expense of any
182 examination administered outside the state shall be the responsibility
183 of the entity making the request and such entity shall pay to the
184 commissioner one hundred dollars for such examination and the
185 actual traveling expenses of the examination administrator to
186 administer such examination; (16) with respect to certified insurance
187 consultants: (A) An examination fee of thirteen dollars for each
188 examination taken, except when a testing service is used, the testing
189 service shall pay a fee of thirteen dollars to the commissioner for each
190 examination taken by an applicant; (B) a fee of two hundred dollars for
191 each license issued; and (C) a fee of one hundred twenty-five dollars
192 for each license renewed; (17) with respect to surplus lines brokers: (A)
193 An examination fee of ten dollars for each examination taken, except
194 when a testing service is used, the testing service shall pay a fee of ten
195 dollars to the commissioner for each examination taken by an
196 applicant; and (B) a fee of five hundred dollars for each license issued
197 or renewed; (18) with respect to fraternal agents, a fee of forty dollars
198 for each license issued or renewed; (19) a fee of thirteen dollars for
199 each license certificate requested, whether or not a license has been
200 issued; (20) with respect to domestic and foreign benefit societies shall
201 pay: (A) For service of process, twenty-five dollars for each person or
202 insurer to be served; (B) for filing a certified copy of its charter or
203 articles of association, five dollars; (C) for filing the annual report, ten
204 dollars; and (D) for filing any additional paper required by law, three
205 dollars; (21) with respect to foreign benefit societies: (A) For each
206 certificate of organization or compliance, four dollars; (B) for each
207 certified copy of permit, two dollars; and (C) for each copy of a report

208 or certificate of condition of a society to be filed in any other state, four
209 dollars; (22) with respect to reinsurance intermediaries: A fee of five
210 hundred dollars for each license issued or renewed; (23) with respect
211 to viatical settlement providers: (A) A filing fee of thirteen dollars for
212 each initial application for a license made pursuant to section 38a-465a;
213 and (B) a fee of twenty dollars for each license issued or renewed; (24)
214 with respect to viatical settlement brokers: (A) A filing fee of thirteen
215 dollars for each initial application for a license made pursuant to
216 section 38a-465a; and (B) a fee of twenty dollars for each license issued
217 or renewed; (25) with respect to viatical settlement investment agents:
218 (A) A filing fee of thirteen dollars for each initial application for a
219 license made pursuant to section 38a-465a; and (B) a fee of twenty
220 dollars for each license issued or renewed; (26) with respect to
221 preferred provider networks, a fee of two thousand five hundred
222 dollars for each license issued or renewed; (27) with respect to rental
223 companies, as defined in section 38a-799, a fee of forty dollars for each
224 permit issued or renewed; (28) with respect to medical discount plan
225 organizations licensed under section 38a-479rr, a fee of five hundred
226 dollars for each license issued or renewed; (29) with respect to
227 pharmacy benefits managers, an application fee of fifty dollars for each
228 registration issued or renewed; and [(29)] (30) with respect to each
229 duplicate license issued a fee of twenty-five dollars for each license
230 issued.

231 Sec. 10. Subdivision (7) of subsection (a) of section 38a-479aa of the
232 general statutes is repealed and the following is substituted in lieu
233 thereof (*Effective January 1, 2008*):

234 (7) "Preferred provider network" means a person, which is not a
235 managed care organization, but which pays claims for the delivery of
236 health care services, accepts financial risk for the delivery of health
237 care services and establishes, operates or maintains an arrangement or
238 contract with providers relating to (A) the health care services
239 rendered by the providers, and (B) the amounts to be paid to the
240 providers for such services. "Preferred provider network" does not
241 include (i) a workers' compensation preferred provider organization

242 established pursuant to section 31-279-10 of the regulations of
 243 Connecticut state agencies, (ii) an independent practice association or
 244 physician hospital organization whose primary function is to contract
 245 with insurers and provide services to providers, [or] (iii) a clinical
 246 laboratory, licensed pursuant to section 19a-30, whose primary
 247 payments for any contracted or referred services are made to other
 248 licensed clinical laboratories or for associated pathology services, or
 249 (iv) a pharmacy benefits manager responsible for administering
 250 pharmacy claims whose primary function is to administer the
 251 pharmacy benefit on behalf of a health benefit plan."

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | January 1, 2008 | New section |
| Sec. 2 | January 1, 2008 | New section |
| Sec. 3 | January 1, 2008 | New section |
| Sec. 4 | January 1, 2008 | New section |
| Sec. 5 | January 1, 2008 | New section |
| Sec. 6 | January 1, 2008 | New section |
| Sec. 7 | January 1, 2008 | New section |
| Sec. 8 | January 1, 2008 | New section |
| Sec. 9 | January 1, 2008 | 38a-11(a) |
| Sec. 10 | January 1, 2008 | 38a-479aa(a)(7) |