



Senate

General Assembly

File No. 79

February Session, 2010

Substitute Senate Bill No. 61

Senate, March 23, 2010

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT REMOVING THE REQUIREMENT OF EMPLOYER OR INSURER PREAPPROVAL FOR THE PROVISION OF CERTAIN MEDICAL EXAMINATIONS AND TREATMENT TO INJURED WORKERS.

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

1 Section 1. Section 31-275 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 As used in this chapter, unless the context otherwise provides:

4 (1) "Arising out of and in the course of his employment" means an
5 accidental injury happening to an employee or an occupational disease
6 of an employee originating while the employee has been engaged in
7 the line of the employee's duty in the business or affairs of the
8 employer upon the employer's premises, or while engaged elsewhere
9 upon the employer's business or affairs by the direction, express or
10 implied, of the employer, provided:

11 (A) (i) For a police officer or firefighter, "in the course of his
12 employment" encompasses such individual's departure from such
13 individual's place of abode to duty, such individual's duty, and the
14 return to such individual's place of abode after duty;

15 (ii) For an employee of the Department of Correction, (I) when
16 responding to a direct order to appear at his or her work assignment
17 under circumstances in which nonessential employees are excused
18 from working, or (II) following two or more mandatory overtime work
19 shifts on consecutive days, "in the course of his employment"
20 encompasses such individual's departure from such individual's place
21 of abode directly to duty, such individual's duty, and the return
22 directly to such individual's place of abode after duty;

23 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this
24 subparagraph, the dependents of any deceased employee of the
25 Department of Correction who was injured in the course of his
26 employment, as defined in this subparagraph, on or after July 1, 2000,
27 and who died not later than July 15, 2000, shall be paid compensation
28 on account of the death, in accordance with the provisions of section
29 31-306, retroactively to the date of the employee's death. The cost of the
30 payment shall be paid by the employer or its insurance carrier which
31 shall be reimbursed for such cost from the Second Injury Fund as
32 provided in section 31-354 upon presentation of any vouchers and
33 information that the Treasurer may require;

34 (B) A personal injury shall not be deemed to arise out of the
35 employment unless causally traceable to the employment other than
36 through weakened resistance or lowered vitality;

37 (C) In the case of an accidental injury, a disability or a death due to
38 the use of alcohol or narcotic drugs shall not be construed to be a
39 compensable injury;

40 (D) For aggravation of a preexisting disease, compensation shall be
41 allowed only for that proportion of the disability or death due to the
42 aggravation of the preexisting disease as may be reasonably attributed

43 to the injury upon which the claim is based;

44 (E) A personal injury shall not be deemed to arise out of the
45 employment if the injury is sustained: (i) At the employee's place of
46 abode, and (ii) while the employee is engaged in a preliminary act or
47 acts in preparation for work unless such act or acts are undertaken at
48 the express direction or request of the employer;

49 (F) For purposes of subparagraph (C) of this subdivision, "narcotic
50 drugs" means all controlled substances, as designated by the
51 Commissioner of Consumer Protection pursuant to subsection (c) of
52 section 21a-243, but does not include drugs prescribed in the course of
53 medical treatment or in a program of research operated under the
54 direction of a physician or pharmacologist. For purposes of
55 subparagraph (E) of this subdivision, "place of abode" includes the
56 inside of the residential structure, the garage, the common hallways,
57 stairways, driveways, walkways and the yard;

58 (G) The Workers' Compensation Commission shall adopt
59 regulations, in accordance with the provisions of chapter 54, to
60 implement the provisions of this section and shall define the terms "a
61 preliminary act", "acts in preparation for work", "departure from place
62 of abode directly to duty" and "return directly to place of abode after
63 duty" on or before January 1, 2006.

64 (2) "Commission" means the Workers' Compensation Commission.

65 (3) "Commissioner" means the compensation commissioner who has
66 jurisdiction in the matter referred to in the context.

67 (4) "Compensation" means benefits or payments mandated by the
68 provisions of this chapter, including, but not limited to, indemnity,
69 medical and surgical aid or hospital and nursing service required
70 under section 31-294d, as amended by this act, and any type of
71 payment for disability, whether for total or partial disability of a
72 permanent or temporary nature, death benefit, funeral expense,
73 payments made under the provisions of section 31-284b, 31-293a or 31-

74 310, or any adjustment in benefits or payments required by this
75 chapter.

76 (5) "Date of the injury" means, for an occupational disease, the date
77 of total or partial incapacity to work as a result of such disease.

78 (6) "Dependent" means a member of the injured employee's family
79 or next of kin who was wholly or partly dependent upon the earnings
80 of the employee at the time of the injury.

81 (7) "Dependent in fact" means a person determined to be a
82 dependent of an injured employee, in any case where there is no
83 presumptive dependent, in accordance with the facts existing at the
84 date of the injury.

85 (8) "Disfigurement" means impairment of or injury to the beauty,
86 symmetry or appearance of a person that renders the person unsightly,
87 misshapen or imperfect, or deforms the person in some manner, or
88 otherwise causes a detrimental change in the external form of the
89 person.

90 (9) (A) "Employee" means any person who:

91 (i) Has entered into or works under any contract of service or
92 apprenticeship with an employer, whether the contract contemplated
93 the performance of duties within or without the state;

94 (ii) Is a sole proprietor or business partner who accepts the
95 provisions of this chapter in accordance with subdivision (10) of this
96 section;

97 (iii) Is elected to serve as a member of the General Assembly of this
98 state;

99 (iv) Is a salaried officer or paid member of any police department or
100 fire department;

101 (v) Is a volunteer police officer, whether the officer is designated as
102 special or auxiliary, upon vote of the legislative body of the town, city

103 or borough in which the officer serves;

104 (vi) Is an elected or appointed official or agent of any town, city or
105 borough in the state, upon vote of the proper authority of the town,
106 city or borough, including the elected or appointed official or agent,
107 irrespective of the manner in which he or she is appointed or
108 employed. Nothing in this subdivision shall be construed as affecting
109 any existing rights as to pensions which such persons or their
110 dependents had on July 1, 1927, or as preventing any existing custom
111 of paying the full salary of any such person during disability due to
112 injury arising out of and in the course of his or her employment; or

113 (vii) Is an officer or enlisted person of the National Guard or other
114 armed forces of the state called to active duty by the Governor while
115 performing his or her active duty service.

116 (B) "Employee" shall not be construed to include:

117 (i) Any person to whom articles or material are given to be treated
118 in any way on premises not under the control or management of the
119 person who gave them out;

120 (ii) One whose employment is of a casual nature and who is
121 employed otherwise than for the purposes of the employer's trade or
122 business;

123 (iii) A member of the employer's family dwelling in his house; but,
124 if, in any contract of insurance, the wages or salary of a member of the
125 employer's family dwelling in his house is included in the payroll on
126 which the premium is based, then that person shall, if he sustains an
127 injury arising out of and in the course of his employment, be deemed
128 an employee and compensated in accordance with the provisions of
129 this chapter;

130 (iv) Any person engaged in any type of service in or about a private
131 dwelling provided he is not regularly employed by the owner or
132 occupier over twenty-six hours per week;

133 (v) An employee of a corporation who is a corporate officer and
134 who elects to be excluded from coverage under this chapter by notice
135 in writing to his employer and to the commissioner; or

136 (vi) Any person who is not a resident of this state but is injured in
137 this state during the course of his employment, unless such person (I)
138 works for an employer who has a place of employment or a business
139 facility located in this state at which such person spends at least fifty
140 per cent of his employment time, or (II) works for an employer
141 pursuant to an employment contract to be performed primarily in this
142 state.

143 (10) "Employer" means any person, corporation, limited liability
144 company, firm, partnership, voluntary association, joint stock
145 association, the state and any public corporation within the state using
146 the services of one or more employees for pay, or the legal
147 representative of any such employer, but all contracts of employment
148 between an employer employing persons excluded from the definition
149 of employee and any such employee shall be conclusively presumed to
150 include the following mutual agreements between employer and
151 employee: (A) That the employer may accept and become bound by
152 the provisions of this chapter by immediately complying with section
153 31-284; (B) that, if the employer accepts the provisions of this chapter,
154 the employee shall then be deemed to accept and be bound by such
155 provisions unless the employer neglects or refuses to furnish
156 immediately to the employee, on his written request, evidence of
157 compliance with section 31-284 in the form of a certificate from the
158 commissioner, the Insurance Commissioner or the insurer, as the case
159 may be; (C) that the employee may, at any time, withdraw his
160 acceptance of, and become released from, the provisions of this chapter
161 by giving written or printed notice of his withdrawal to the
162 commissioner and to the employer, and the withdrawal shall take
163 effect immediately from the time of its service on the commissioner
164 and the employer; and (D) that the employer may withdraw his
165 acceptance and the acceptance of the employee by filing a written or
166 printed notice of his withdrawal with the commissioner and with the

167 employee, and the withdrawal shall take effect immediately from the
168 time of its service on the commissioner and the employee. The notices
169 of acceptance and withdrawal to be given by an employer employing
170 persons excluded from the definition of employee and the notice of
171 withdrawal to be given by the employee, as provided in this
172 subdivision, shall be served upon the commissioner, employer or
173 employee, either by personal presentation or by registered or certified
174 mail. In determining the number of employees employed by an
175 individual, the employees of a partnership of which he is a member
176 shall not be included. A person who is the sole proprietor of a business
177 may accept the provisions of this chapter by notifying the
178 commissioner, in writing, of his intent to do so. If such person accepts
179 the provisions of this chapter he shall be considered to be an employer
180 and shall insure his full liability in accordance with subdivision (2) of
181 subsection (b) of section 31-284. Such person may withdraw his
182 acceptance by giving notice of his withdrawal, in writing, to the
183 commissioner. Any person who is a partner in a business shall be
184 deemed to have accepted the provisions of this chapter and shall
185 insure his full liability in accordance with subdivision (2) of subsection
186 (b) of section 31-284, unless the partnership elects to be excluded from
187 the provisions of this chapter by notice, in writing and by signed
188 agreement of each partner, to the commissioner.

189 (11) "Full-time student" means any student enrolled for at least
190 seventy-five per cent of a full-time student load at a postsecondary
191 educational institution which has been approved by a state-recognized
192 or federally-recognized accrediting agency or body. "Full-time student
193 load" means the number of credit hours, quarter credits or academic
194 units required for a degree from such institution, divided by the
195 number of academic terms needed to complete the degree.

196 (12) "Medical and surgical aid or hospital and nursing service",
197 when requested by an injured employee and approved by the
198 commissioner, includes treatment by prayer or spiritual means
199 through the application or use of the principles, tenets or teachings of
200 any established church without the use of any drug or material

201 remedy, provided sanitary and quarantine regulations are complied
202 with, and provided all those ministering to the injured employee are
203 bona fide members of such church.

204 (13) "Member" includes all parts of the human body referred to in
205 subsection (b) of section 31-308.

206 (14) "Nursing" means the practice of nursing as defined in
207 subsection (a) of section 20-87a, and "nurse" means a person engaged
208 in such practice.

209 (15) "Occupational disease" includes any disease peculiar to the
210 occupation in which the employee was engaged and due to causes in
211 excess of the ordinary hazards of employment as such, and includes
212 any disease due to or attributable to exposure to or contact with any
213 radioactive material by an employee in the course of his employment.

214 (16) (A) "Personal injury" or "injury" includes, in addition to
215 accidental injury that may be definitely located as to the time when
216 and the place where the accident occurred, an injury to an employee
217 that is causally connected with the employee's employment and is the
218 direct result of repetitive trauma or repetitive acts incident to such
219 employment, and occupational disease.

220 (B) "Personal injury" or "injury" shall not be construed to include:

221 (i) An injury to an employee that results from the employee's
222 voluntary participation in any activity the major purpose of which is
223 social or recreational, including, but not limited to, athletic events,
224 parties and picnics, whether or not the employer pays some or all of
225 the cost of such activity;

226 (ii) A mental or emotional impairment, unless such impairment
227 arises (I) from a physical injury or occupational disease, or (II) in the
228 case of a police officer, from such police officer's use of deadly force or
229 subjection to deadly force in the line of duty, regardless of whether
230 such police officer is physically injured, provided such police officer is
231 the subject of an attempt by another person to cause such police officer

232 serious physical injury or death through the use of deadly force, and
233 such police officer reasonably believes such police officer to be the
234 subject of such an attempt. As used in this clause, "police officer"
235 means a member of the Division of State Police within the Department
236 of Public Safety, an organized local police department or a municipal
237 constabulary, and "in the line of duty" means any action that a police
238 officer is obligated or authorized by law, rule, regulation or written
239 condition of employment service to perform, or for which the police
240 officer is compensated by the public entity such officer serves;

241 (iii) A mental or emotional impairment that results from a personnel
242 action, including, but not limited to, a transfer, promotion, demotion
243 or termination; or

244 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this
245 subdivision, "personal injury" or "injury" includes injuries to
246 employees of local or regional boards of education resulting from
247 participation in a school-sponsored activity but does not include any
248 injury incurred while going to or from such activity. As used in this
249 clause, "school-sponsored activity" means any activity sponsored,
250 recognized or authorized by a board of education and includes
251 activities conducted on or off school property and "participation"
252 means acting as a chaperone, advisor, supervisor or instructor at the
253 request of an administrator with supervisory authority over the
254 employee.

255 (17) "Physician" includes any person licensed and authorized to
256 practice a healing art, as defined in section 20-1, and licensed under the
257 provisions of chapters 370, 372 and 373 to practice in this state.

258 (18) "Podiatrist" means any practitioner of podiatry, as defined in
259 section 20-50, and duly licensed under the provisions of chapter 375 to
260 practice in this state.

261 (19) "Presumptive dependents" means the following persons who
262 are conclusively presumed to be wholly dependent for support upon a
263 deceased employee: (A) A wife upon a husband with whom she lives

264 at the time of his injury or from whom she receives support regularly;
265 (B) a husband upon a wife with whom he lives at the time of her injury
266 or from whom he receives support regularly; (C) any child under the
267 age of eighteen, or over the age of eighteen but physically or mentally
268 incapacitated from earning, upon the parent with whom he is living or
269 from whom he is receiving support regularly, at the time of the injury
270 of the parent; (D) any unmarried child who has attained the age of
271 eighteen but has not attained the age of twenty-two and who is a full-
272 time student, upon the parent with whom he is living or from whom
273 he is receiving support regularly, provided, any child who has attained
274 the age of twenty-two while a full-time student but has not completed
275 the requirements for, or received, a degree from a postsecondary
276 educational institution shall be deemed not to have attained the age of
277 twenty-two until the first day of the first month following the end of
278 the quarter or semester in which he is enrolled at the time, or if he is
279 not enrolled in a quarter or semester system, until the first day of the
280 first month following the completion of the course in which he is
281 enrolled or until the first day of the third month beginning after such
282 time, whichever occurs first.

283 (20) "Previous disability" means an employee's preexisting condition
284 caused by the total or partial loss of, or loss of use of, one hand, one
285 arm, one foot or one eye resulting from accidental injury, disease or
286 congenital causes, or other permanent physical impairment.

287 (21) "Routine examination or treatment" includes, but is not limited
288 to, prescription drugs, diagnostic tests, physical therapy or evaluation
289 recommended by an approved physician or surgeon.

290 [(21)] (22) "Scar" means the mark left on the skin after the healing of
291 a wound or sore, or any mark, damage or lasting effect resulting from
292 past injury.

293 [(22)] (23) "Second disability" means a disability arising out of a
294 second injury.

295 [(23)] (24) "Second injury" means an injury, incurred by accident,

296 repetitive trauma, repetitive acts or disease arising out of and in the
297 course of employment, to an employee with a previous disability.

298 Sec. 2. Section 31-279 of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective October 1, 2010*):

300 (a) The chairman of the Workers' Compensation Commission shall
301 adopt regulations, in accordance with the provisions of chapter 54,
302 specifying the minimum information to be contained in a notice of the
303 availability of compensation which shall be posted in the workplace by
304 each employer subject to the provisions of this chapter pursuant to
305 subsection (f) of section 31-284.

306 (b) The chairman of the Workers' Compensation Commission shall,
307 not later than July 1, 1991, adopt regulations, in accordance with
308 chapter 54, to create a uniform system to be used by medical
309 professionals in determining the degree of physical impairment of
310 persons receiving compensation under this chapter.

311 (c) (1) Any employer or any insurer acting on behalf of an employer,
312 may establish a plan, subject to the approval of the chairman of the
313 Workers' Compensation Commission under subsection (d) of this
314 section, for the provision of medical care that the employer provides
315 for treatment of any injury or illness under this chapter. Each plan
316 shall contain such information as the chairman shall require, including,
317 but not limited to:

318 (A) A listing of all persons who will provide services under the
319 plan, along with appropriate evidence that each person listed has met
320 any licensing, certification or registration requirement necessary for
321 the person to legally provide the service in this state;

322 (B) A listing of all pharmacies that will provide services under the
323 plan, to which the employer, any insurer acting on behalf of the
324 employer, or any other entity acting on behalf of the employer or
325 insurer shall make direct payments for any prescription drug
326 prescribed by a physician participating in the plan;

327 (C) A designation of the times, places and manners in which the
328 services will be provided;

329 (D) A description of how the quality and quantity of medical care
330 will be managed; and

331 (E) Such other provisions as the employer and the employees may
332 agree to, subject to the approval of the chairman.

333 (2) The election by an employee covered by a plan established under
334 this subsection to obtain medical care and treatment from a provider of
335 medical services who is not listed in the plan shall suspend the
336 employee's right to compensation, subject to the order of the
337 commissioner.

338 (d) Each plan established under subsection (c) of this section shall be
339 submitted to the chairman for his approval at least one hundred
340 twenty days before the proposed effective date of the plan and each
341 approved plan, along with any proposed changes therein, shall be
342 resubmitted to the chairman every two years thereafter for reapproval.
343 The chairman shall approve or disapprove such plans on the basis of
344 standards established by the chairman in consultation with a medical
345 advisory panel appointed by the chairman. Such standards shall
346 include, but not be limited to: (1) The ability of the plan to provide all
347 medical and health care services that may be required under this
348 chapter in a manner that is timely, effective and convenient for the
349 employees; (2) the inclusion in the plan of all categories of medical
350 service and of an adequate number of providers of each type of
351 medical service in accessible locations to ensure that employees are
352 given an adequate choice of providers; (3) the provision in the plan for
353 appropriate financial incentives to reduce service costs and utilization
354 without a reduction in the quality of service; (4) the inclusion in the
355 plan of fee screening, peer review, service utilization review and
356 dispute resolution procedures designed to prevent inappropriate or
357 excessive treatment; and (5) the inclusion in the plan of a procedure by
358 which information on medical and health care service costs and
359 utilization will be reported to the chairman in order for him to

360 determine the effectiveness of the plan.

361 (e) Any person who serves as a member of the medical advisory
362 panel, appointed by the chairman of the Workers' Compensation
363 Commission pursuant to subsection (d) of this section, shall be deemed
364 to be a state officer or employee for purposes of indemnification and
365 defense under section 5-141d.

366 (f) The Workers' Compensation Commission shall have plenary
367 authority for review of decisions with respect to the provision or
368 denial of medical care under any plan approved by the chairperson
369 under subsection (d) of this section and may determine whether such
370 medical care is reasonable or necessary.

371 Sec. 3. Section 31-294d of the general statutes is repealed and the
372 following is substituted in lieu thereof (*Effective October 1, 2010*):

373 (a) (1) The employer, as soon as the employer has knowledge of an
374 injury, shall provide a competent physician or surgeon to attend the
375 injured employee and, in addition, shall furnish any medical and
376 surgical aid or hospital and nursing service, including medical
377 rehabilitation services and prescription drugs, as the physician or
378 surgeon deems reasonable or necessary. The employer, any insurer
379 acting on behalf of the employer, or any other entity acting on behalf of
380 the employer or insurer shall be responsible for paying the cost of such
381 prescription drugs directly to the provider.

382 (2) If the injured employee is a local or state police officer, state
383 marshal, judicial marshal, correction officer, emergency medical
384 technician, paramedic, ambulance driver, firefighter, or active member
385 of a volunteer fire company or fire department engaged in volunteer
386 duties, who has been exposed in the line of duty to blood or bodily
387 fluids that may carry blood-borne disease, the medical and surgical aid
388 or hospital and nursing service provided by the employer shall include
389 any relevant diagnostic and prophylactic procedure for and treatment
390 of any blood-borne disease.

391 (b) The employee shall select the physician or surgeon from an
392 approved list of physicians and surgeons prepared by the chairman of
393 the Workers' Compensation Commission. If the employee is unable to
394 make the selection, the employer shall do so, subject to ratification by
395 the employee or his next of kin. If the employer has a full-time staff
396 physician or if a physician is available on call, the initial treatment
397 required immediately following the injury may be rendered by that
398 physician, but the employee may thereafter select his own physician as
399 provided by this chapter for any further treatment without prior
400 approval of the commissioner.

401 (c) The commissioner may, without hearing, at the request of the
402 employer or the injured employee, when good reason exists, or on his
403 own motion, authorize a routine examination or treatment or authorize
404 or direct a change of physician or surgeon or hospital or nursing
405 service provided pursuant to subsection (a) of this section.

406 (d) (1) The pecuniary liability of the employer for the medical and
407 surgical service required by this section shall be limited to the charges
408 that prevail in the same community or similar communities for similar
409 treatment of injured persons of a like standard of living when the
410 similar treatment is paid for by the injured person. The liability of the
411 employer for hospital service shall be the amount it actually costs the
412 hospital to render the service, as determined by the commissioner,
413 except in the case of state humane institutions, the liability of the
414 employer shall be the per capita cost as determined by the Comptroller
415 under the provisions of section 17b-223. All disputes concerning
416 liability for hospital services in workers' compensation cases shall be
417 settled by the commissioner in accordance with this chapter.

418 (2) Whenever there is an agreement in regard to compensation
419 pursuant to subsection (a) of section 31-296, as amended by this act, no
420 preapproval by the employer, insurer or Second Injury Fund for a
421 routine medical examination or medical treatment shall be required.
422 The failure to preapprove a routine medical examination or treatment
423 shall not be a defense to payment of the cost of such examination or

424 treatment.

425 (e) If the employer fails to promptly provide a physician or surgeon
426 or any medical and surgical aid or hospital and nursing service as
427 required by this section, the injured employee may obtain a physician
428 or surgeon, selected from the approved list prepared by the chairman,
429 or such medical and surgical aid or hospital and nursing service at the
430 expense of the employer.

431 Sec. 4. Section 31-296 of the general statutes is repealed and the
432 following is substituted in lieu thereof (*Effective October 1, 2010*):

433 (a) If an employer and an injured employee, or in case of fatal injury
434 the employee's legal representative or dependent, at a date not earlier
435 than the expiration of the waiting period, reach an agreement in regard
436 to compensation, such agreement shall be submitted in writing to the
437 commissioner by the employer with a statement of the time, place and
438 nature of the injury upon which it is based; and, if such commissioner
439 finds such agreement to conform to the provisions of this chapter in
440 every regard, the commissioner shall so approve it. A copy of the
441 agreement, with a statement of the commissioner's approval, shall be
442 delivered to each of the parties and thereafter it shall be as binding
443 upon both parties as an award by the commissioner. The
444 commissioner's statement of approval shall also inform the employee
445 or the employee's dependent, as the case may be, of any rights the
446 individual may have to an annual cost-of-living adjustment or to
447 participate in a rehabilitation program under the provisions of this
448 chapter. The commissioner shall retain the original agreement, with
449 the commissioner's approval thereof, in the commissioner's office and,
450 if an application is made to the superior court for an execution, the
451 commissioner shall, upon the request of said court, file in the court a
452 certified copy of the agreement and statement of approval.

453 (b) Before discontinuing or reducing payment on account of total or
454 partial incapacity, medical or surgical service or routine examination
455 or treatment pursuant to section 31-294d, as amended by this act,
456 under any such agreement, the employer or the employer's insurer, if

457 it is claimed by or on behalf of the injured employee that such
458 employee's incapacity or need for medical or surgical service or
459 routine examination or treatment pursuant to section 31-294d, as
460 amended by this act, still continues, shall notify the commissioner and
461 the employee, by certified mail, of the proposed discontinuance or
462 reduction of such payments, medical or surgical service or routine
463 examination or treatment pursuant to section 31-294d, as amended by
464 this act. Such notice shall specify the reason for the proposed
465 discontinuance or reduction and the date such proposed
466 discontinuance or reduction will commence. No discontinuance or
467 reduction shall become effective unless specifically approved in
468 writing by the commissioner. The employee may request a hearing on
469 any such proposed discontinuance or reduction not later than fifteen
470 days after receipt of such notice. Any such request for a hearing shall
471 be given priority over requests for hearings on other matters. The
472 commissioner shall not approve any such discontinuance or reduction
473 prior to the expiration of the period for requesting a hearing or the
474 completion of such hearing, whichever is later. In any case where the
475 commissioner finds that an employer has discontinued or reduced any
476 payments, medical or surgical service or routine examination or
477 treatment pursuant to section 31-294d, as amended by this act, made in
478 accordance with this section without the approval of the
479 commissioner, the commissioner shall order the medical or surgical
480 service or routine examination or treatment pursuant to subsection (c)
481 of section 31-294d, as amended by this act, and such employer shall be
482 required to pay to the employee the total amount of all payments so
483 discontinued or the total amount by which such payments were
484 reduced, as the case may be, and shall be required to pay interest to the
485 employee, at a rate of one and one-quarter per cent per month or
486 portion of a month, on any payments so discontinued or on the total
487 amount by which such payments were reduced, as the case may be,
488 plus reasonable attorney's fees incurred by the employee in relation to
489 such discontinuance or reduction.

490 (c) The employer's or insurer's notice of intention to discontinue or
491 reduce payments, medical or surgical service or routine examination or

492 treatment pursuant to section 31-294d, as amended by this act, shall (1)
493 identify the claimant, the claimant's attorney or other representative,
494 the employer, the insurer, and the injury, including the date of the
495 injury, the city or town in which the injury occurred and the nature of
496 the injury, (2) include medical documentation that (A) establishes the
497 basis for the discontinuance or reduction of payments, and (B)
498 identifies the claimant's attending physician, and (3) be in substantially
499 the following form:

500 IMPORTANT

501 STATE OF CONNECTICUT WORKERS' COMPENSATION
502 COMMISSION

503 YOU ARE HEREBY NOTIFIED THAT THE EMPLOYER OR
504 INSURER INTENDS TO REDUCE OR DISCONTINUE YOUR
505 COMPENSATION PAYMENTS, MEDICAL OR SURGICAL SERVICE
506 OR ROUTINE EXAMINATION OR TREATMENT ON (date) FOR
507 THE FOLLOWING REASONS:

508 If you object to the reduction or discontinuance of benefits, service,
509 examination or treatment as stated in this notice, YOU MUST
510 REQUEST A HEARING NOT LATER THAN 15 DAYS after your
511 receipt of this notice, or this notice will automatically be approved.

512 To request an Informal Hearing, call the Workers' Compensation
513 Commission District Office in which your case is pending.

514 Be prepared to provide medical and other documentation to
515 support your objection. For your protection, note the date when you
516 received this notice.

517 (d) Whenever an employer or insurer files a notice pursuant to this
518 section seeking to discontinue medical or surgical service or routine
519 examination or treatment pursuant to section 31-294d, as amended by
520 this act, the employer or insurer shall attach to the notice the basis for
521 such discontinuance. If the employer or insurer intends to rely upon an
522 examination pursuant to section 31-294f, the employer or insurer shall

523 attach (1) a copy of the report from such examination, or (2) if no such
524 examination has been conducted, a notice stating the date, time and
525 location of when such examination shall be conducted.

526 Sec. 5. Section 31-296a of the general statutes is repealed and the
527 following is substituted in lieu thereof (*Effective October 1, 2010*):

528 No employer shall discontinue or reduce payment on account of
529 total or partial incapacity, medical or surgical service or routine
530 examination or treatment pursuant to section 31-294d, as amended by
531 this act, under any oral agreement or in any case where the employer's
532 acceptance of compensability has been conclusively presumed under
533 subsection (b) of section 31-294c because of failure to file a timely
534 notice contesting liability, if it is claimed by or on behalf of the injured
535 person that his incapacity still continues, unless such employer notifies
536 the commissioner and the employee of the proposed discontinuance or
537 reduction in the manner prescribed in section 31-296, as amended by
538 this act, and the commissioner specifically approves such
539 discontinuance or reduction in writing.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	31-275
Sec. 2	<i>October 1, 2010</i>	31-279
Sec. 3	<i>October 1, 2010</i>	31-294d
Sec. 4	<i>October 1, 2010</i>	31-296
Sec. 5	<i>October 1, 2010</i>	31-296a

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Administrative Services - Workers' Comp. Claims	GF & TF - Potential Cost	Potential Significant	Potential Significant

Note: GF=General Fund; TF=Special Transportation Fund

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
All Municipalities	STATE MANDATE - Potential Cost	Potential	Potential

Explanation

The bill may result in a potential significant impact to the state and municipalities because it may increase the number of routine examinations and treatment required to be covered.

It is unclear to what extent older unsettled claims may affect medical costs for routine examinations and treatment. The state has approximately 250,000 claims more than 7 years old, where it is more difficult to assess the medical necessity of a routine examination or treatment in relationship to the original injury.

This bill is not anticipated to have a fiscal impact on the Workers' Compensation Commission.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 61*****AN ACT REMOVING THE REQUIREMENT OF EMPLOYER OR INSURER PREAPPROVAL FOR THE PROVISION OF CERTAIN MEDICAL EXAMINATIONS AND TREATMENT TO INJURED WORKERS.*****SUMMARY:**

Under this bill, insurers or employers must provide routine medical exams or treatment in cases when the parties agree that the employee's injury is work related. It provides that (1) no pre-approval of routine exams or treatment is needed and (2) a workers' compensation commissioner can order such exam or treatment without a hearing. Under current law, a workers' compensation commissioner can order the treatment or exam only after holding a formal hearing.

The bill requires an employer or insurer to provide an employee with advance notice, with the employee having an opportunity for a hearing, before discontinuing (1) a medical or surgical service or (2) routine exam or treatment. This applies in cases where both sides initially agreed that the injury is work related. By law, such notice and opportunity for hearings is already provided before wage replacement benefits can be reduced or cut off.

The bill also gives a commissioner plenary authority to review decisions to provide or deny medical care under any employer-sponsored workers' compensation medical plan approved by the workers' compensation chairperson under existing law. The reviewing commissioner can determine whether such medical care is reasonable or necessary. Under current law and unchanged by the bill, the chairman reviews and approves employer medical care plans every two years.

EFFECTIVE DATE: October 1, 2010

§ 1 — ROUTINE EXAM OR TREATMENT

The bill defines “routine medical examination or treatment” to include prescription drugs, diagnostic tests, physical therapy, or evaluation recommended by an approved physician or surgeon.

§ 3 — FAILURE TO PRE-APPROVE NOT A PAYMENT DEFENSE

Under the bill, the failure of an employer, insurer, or the Second Injury Fund (SIF) to pre-approve a routine medical exam or treatment is barred as a defense to paying the cost of such examination or treatment. This applies to claims where there is no dispute over whether the injury is work related.

The SIF is a state-run, employer-funded program to provide workers’ compensation benefits to employees whose employers did not provide worker’s compensation.

§ 4 — NOTICE REQUIREMENTS BEFORE STOPPING MEDICAL SERVICE, TREATMENT, OR EXAM

The bill requires an employer or insurer to give an employee with advance notice, with the employee having an opportunity for a hearing, before discontinuing a medical or surgical service or routine exam or treatment. This applies in cases where both sides agreed that the injury is work related.

The bill requires the text of the notice to substantially state as follows: “YOU ARE HEREBY NOTIFIED THAT THE EMPLOYER OR INSURER INTENDS TO REDUCE OR DISCONTINUE YOUR COMPENSATION PAYMENTS, MEDICAL OR SURGICAL SERVICE OR ROUTINE EXAMINATION OR TREATMENT ON (date).” The employer or insurer must state on the form the reason for requesting the discontinuance.

The bill requires that any discontinuation notice an employer or insurer files must have attached to it the basis for such discontinuance. If the employer or insurer intends to rely on an employer-requested

independent medical examination, the employer or insurer must attach (1) a copy of the exam report or (2) if such exam has not been conducted, a notice stating when and where it will take place.

Upon receiving the notice, the employee has 15 days to request a hearing to object to the discontinuance or the notice to discontinue is automatically approved.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 3 (03/09/2010)