



## ILLEGAL ACT AND DRUG AND ALCOHOL EXCLUSIONS IN HEALTH INSURANCE POLICIES

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### WHAT IS AN EXCLUSION?

Exclusions are conditions that are not covered by an insurance policy and for which the carrier will not pay benefits.

An illegal act exclusion, for example, means the policy will not pay out benefits for an injury sustained during, or resulting from, the insured participating in an illegal act.

### ISSUE

Explain illegal act and drug and alcohol exclusions in insurance policies in Connecticut and other states.

### SUMMARY

An exclusion clause in a health, life, long-term care, or other insurance policy allows an insurer to deny coverage for injuries sustained during, or resulting from, a specific situation (e.g., while committing an illegal act).

Connecticut does not prohibit illegal act exclusions, but the Connecticut Insurance Department has indicated it would review such exclusions with increased scrutiny.

Illegal act exclusions are sometimes paired with drug and alcohol exclusions, which exclude coverage for injuries sustained while under the influence of alcohol or drugs not prescribed by a doctor. Connecticut law prohibits alcohol and drug exclusions in health insurance policies ([CGS §§ 38a-498c](#) & [38a-525c](#)).

According to the National Association of Insurance Commissioners' (NAIC), many states allow illegal act exclusions but only about half of all states allow alcohol and drug exclusions.



## **ILLEGAL ACT EXCLUSION CLAUSES**

### ***Connecticut***

Connecticut does not prohibit illegal act exclusions in insurance policies. However, according to the Connecticut Insurance Department, the department found no such exclusions in a search of the major medical or HMO forms filed by major carriers.

In addition, the department said it would not approve an illegal act exclusion unless the policy narrowly defined the terms and conditions. For example, while the department might not allow an insurer to deny coverage to an insured who was injured and subsequently falsely arrested, it might allow the insurer to do so if the insured was convicted of a crime.

Department regulations allow exclusions for injuries sustained while participating in a felony (Conn. Agency Regs. § 38a-505-7(G)(4)(a)). Insurance Department [Bulletin PF-4](#) explicitly allows exclusions for injuries sustained while participating in a riot if the terms “participate” and “riot” are defined in the contract.

### ***Other States***

At least 18 states have laws or regulations relating to illegal act exclusions, according to the National Conference of State Legislatures (NCSL).

States allow or prohibit the exclusions in a wide range of insurance policies, including health, life, and long-term care. In addition, the breadth of the exclusion varies significantly among states. For example, California allows a long-term care insurer to deny coverage for “participation in a felony, riot, or insurrection” (Cal. Ins. Code § 10235.8), while Iowa excludes coverage for “any injury incurred during the commission of, or an attempt to commit, a felony or sickness incurred while engaging in an illegal act or occupation or participation in a riot” (Iowa Admin. Code § 191-71.14(8) (38)).

### ***NAIC Model Act***

NAIC’s Uniform Individual Accident and Sickness Policy Provision (UPPL) model act, adopted by all of the states except Utah, includes general exclusions for insureds engaging in a felony or illegal occupation. However, because not all states that adopt the model act also adopt the specific illegal activity exclusions, it is not clear how many states allow or prohibit these exclusions.

## DRUG AND ALCOHOL EXCLUSION CLAUSES

Connecticut prohibits denying health coverage to individuals for injuries sustained while under the influence of alcohol or drugs.

According to the [National Institute of Alcohol Abuse and Alcoholism](#), part of the National Institutes of Health, 25 states explicitly permit drug and alcohol exclusion clauses in health and sickness policies, 16 states and the District of Columbia explicitly prohibit such clauses, and 10 states do not have provisions explicitly allowing or prohibiting the clauses. One state, Maine, both permits and prohibits alcohol and drug exclusion clauses in certain circumstances. Table 1 lists states that allow or prohibit alcohol and drug exclusion clauses in health insurance policies as of January 1, 2015.

**Table 1: Alcohol and Drug Exclusion Clauses by State**

Alcohol and Drug Exclusion Clauses Permitted	Alcohol and Drug Exclusion Clauses Prohibited	Alcohol and Drug Clauses Neither Permitted nor Prohibited
Alabama	California	Massachusetts
Alaska	Colorado	Michigan
Arizona	Connecticut	Minnesota
Arkansas	District of Columbia	New Hampshire
Delaware	Illinois	New Mexico
Florida	Indiana	Oklahoma
Georgia	Iowa	Texas
Hawaii	Maine	Utah
Idaho	Maryland	Vermont
Kansas	Nevada	Wisconsin
Kentucky	North Carolina	
Louisiana	North Dakota	
Maine	Ohio	
Mississippi	Oregon	
Missouri	Rhode Island	
Montana	South Dakota	
Nebraska	Washington	
New Jersey		
New York		
Pennsylvania		
South Carolina		
Tennessee		
Virginia		
West Virginia		
Wyoming		
<b>Totals</b>	<b>25</b>	<b>17</b>
		<b>10</b>

Source: [National Institute of Alcohol Abuse and Alcoholism](#)

***NAIC Model Act***

NAIC's UPPL authorizes exclusions for injuries sustained while the insured is intoxicated or under the influence of a narcotic not prescribed by a physician, but prohibits the exclusion from applying to medical expense (e.g., health) policies.

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