



General Assembly

January Session, 2019

Amendment

LCO No. 11043



Offered by:
REP. ROJAS, 9th Dist.

To: House Bill No. 7363

File No. 628

Cal. No. 381

"AN ACT CONCERNING BUILDINGS."

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

3 "Section 1. Section 38a-477cc of the general statutes is repealed and
4 the following is substituted in lieu thereof (*Effective October 1, 2019*):

5 (a) [On and after January 1, 2018, no] No contract for pharmacy
6 services entered into in the state between a health carrier, as defined in
7 section 38a-591a, or pharmacy benefits manager, as defined in section
8 38a-479aaa, and a pharmacy or pharmacist shall:

9 (1) On and after January 1, 2018, contain a provision prohibiting or
10 penalizing, including through increased utilization review, reduced
11 payments or other financial disincentives, a pharmacist's disclosure to
12 an individual purchasing prescription medication of information
13 regarding: [(1) the]

14 (A) The cost of the prescription medication to the individual; [.] or

15 [(2) the]

16 (B) The availability of any therapeutically equivalent alternative
17 medications or alternative methods of purchasing the prescription
18 medication, including, but not limited to, paying a cash price, that are
19 less expensive than the cost of the prescription medication to the
20 individual; [.] and

21 (2) On and after January 1, 2020, contain a provision permitting the
22 health carrier or pharmacy benefits manager to recoup, directly or
23 indirectly, from a pharmacy or pharmacist any portion of a claim that
24 such health carrier or pharmacy benefits manager has paid to the
25 pharmacy or pharmacist, unless such recoupment is permitted under
26 section 38a-479iii or required by applicable law.

27 (b) (1) On and after January 1, 2018, no health carrier or pharmacy
28 benefits manager shall require an individual to make a payment at the
29 point of sale for a covered prescription medication in an amount
30 greater than the lesser of: [(1) the]

31 (A) The applicable copayment for such prescription medication; [,
32 (2) the]

33 (B) The allowable claim amount for the prescription medication; [.]
34 or [(3) the]

35 (C) The amount an individual would pay for the prescription
36 medication if the individual purchased the prescription medication
37 without using a health benefit plan, as defined in section 38a-591a, or
38 any other source of prescription medication benefits or discounts.

39 (2) For the purposes of this subsection, "allowable claim amount"
40 means the amount the health carrier or pharmacy benefits manager
41 has agreed to pay the pharmacy for the prescription medication.

42 (c) Any provision of a contract that violates the provisions of this
43 section shall be void and unenforceable. Any general business practice
44 that violates the provisions of this section shall constitute an unfair

45 trade practice pursuant to chapter 735a. The invalidity or
46 unenforceability of any contract provision under this subsection shall
47 not affect any other provision of the contract.

48 (d) The Insurance Commissioner may: [, (1) pursuant to the
49 provisions of chapter 697, enforce]

50 (1) Enforce the provisions of this section [,] pursuant to chapter 697;
51 and

52 (2) [upon] Upon request, audit a contract for pharmacy services for
53 compliance with the provisions of this section.

54 Sec. 2. Section 31-53 of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective July 1, 2019*):

56 (a) Each contract for the construction, remodeling, refinishing,
57 refurbishing, rehabilitation, alteration or repair of any public works
58 project by the state or any of its agents, or by any political subdivision
59 of the state or any of its agents, shall contain the following provision:
60 "The wages paid on an hourly basis to any person performing the
61 work of any mechanic, laborer or worker on the work herein
62 contracted to be done and the amount of payment or contribution paid
63 or payable on behalf of each such person to any employee welfare
64 fund, as defined in subsection (i) of this section, shall be at a rate equal
65 to the rate customary or prevailing for the same work in the same
66 trade or occupation in the town in which such public works project is
67 being constructed. Any contractor who is not obligated by agreement
68 to make payment or contribution on behalf of such persons to any such
69 employee welfare fund shall pay to each mechanic, laborer or worker
70 as part of such person's wages the amount of payment or contribution
71 for such person's classification on each pay day."

72 (b) Any contractor or subcontractor who knowingly or wilfully
73 employs any mechanic, laborer or worker in the construction,
74 remodeling, refinishing, refurbishing, rehabilitation, alteration or
75 repair of any public works project for or on behalf of the state or any of

76 its agents, or any political subdivision of the state or any of its agents,
77 at a rate of wage on an hourly basis that is less than the rate customary
78 or prevailing for the same work in the same trade or occupation in the
79 town in which such public works project is being constructed,
80 remodeled, refinished, refurbished, rehabilitated, altered or repaired,
81 or who fails to pay the amount of payment or contributions paid or
82 payable on behalf of each such person to any employee welfare fund,
83 or in lieu thereof to the person, as provided by subsection (a) of this
84 section, shall be fined not less than two thousand five hundred dollars
85 but not more than five thousand dollars for each offense and (1) for the
86 first violation, shall be disqualified from bidding on contracts with the
87 state or any political subdivision until the contractor or subcontractor
88 has made full restitution of the back wages owed to such persons and
89 for an additional six months thereafter, and (2) for subsequent
90 violations, shall be disqualified from bidding on contracts with the
91 state or any political subdivision until the contractor or subcontractor
92 has made full restitution of the back wages owed to such persons and
93 for not less than an additional two years thereafter. In addition, if it is
94 found by the contracting officer representing the state or political
95 subdivision of the state that any mechanic, laborer or worker
96 employed by the contractor or any subcontractor directly on the site
97 for the work covered by the contract has been or is being paid a rate of
98 wages less than the rate of wages required by the contract to be paid as
99 required by this section, the state or contracting political subdivision of
100 the state may (A) by written or electronic notice to the contractor,
101 terminate such contractor's right to proceed with the work or such part
102 of the work as to which there has been a failure to pay said required
103 wages and to prosecute the work to completion by contract or
104 otherwise, and the contractor and the contractor's sureties shall be
105 liable to the state or the contracting political subdivision for any excess
106 costs occasioned the state or the contracting political subdivision
107 thereby, or (B) withhold payment of money to the contractor or
108 subcontractor. The contracting department of the state or the political
109 subdivision of the state shall, not later than two days after taking such
110 action, notify the Labor Commissioner, in writing or electronically, of

111 the name of the contractor or subcontractor, the project involved, the
112 location of the work, the violations involved, the date the contract was
113 terminated, and steps taken to collect the required wages.

114 (c) The Labor Commissioner may make complaint to the proper
115 prosecuting authorities for the violation of any provision of subsection
116 (b) of this section.

117 (d) For the purpose of predetermining the prevailing rate of wage
118 on an hourly basis and the amount of payment or contributions paid or
119 payable on behalf of each person to any employee welfare fund, as
120 defined in subsection (i) of this section, in each town where such
121 contract is to be performed, the Labor Commissioner shall (1) hold a
122 hearing at any required time to determine the prevailing rate of wages
123 on an hourly basis and the amount of payment or contributions paid or
124 payable on behalf of each person to any employee welfare fund, as
125 defined in subsection (i) of this section, upon any public work within
126 any specified area, and shall establish classifications of skilled,
127 semiskilled and ordinary labor, or (2) adopt and use such appropriate
128 and applicable prevailing wage rate determinations as have been made
129 by the Secretary of Labor of the United States under the provisions of
130 the Davis-Bacon Act, as amended.

131 (e) The Labor Commissioner shall determine the prevailing rate of
132 wages on an hourly basis and the amount of payment or contributions
133 paid or payable on behalf of such person to any employee welfare
134 fund, as defined in subsection (i) of this section, in each locality where
135 any such public work is to be constructed, and the agent empowered
136 to let such contract shall contact the Labor Commissioner, at least ten
137 but not more than twenty days prior to the date such contracts will be
138 advertised for bid, to ascertain the proper rate of wages and amount of
139 employee welfare fund payments or contributions and shall include
140 such rate of wage on an hourly basis and the amount of payment or
141 contributions paid or payable on behalf of each person to any
142 employee welfare fund, as defined in subsection (i) of this section, or in
143 lieu thereof the amount to be paid directly to each person for such

144 payment or contributions as provided in subsection (a) of this section
145 for all classifications of labor in the proposal for the contract. The rate
146 of wage on an hourly basis and the amount of payment or
147 contributions to any employee welfare fund, as defined in subsection
148 (i) of this section, or cash in lieu thereof, as provided in subsection (a)
149 of this section, shall, at all times, be considered as the minimum rate
150 for the classification for which it was established. Prior to the award of
151 any contract, purchase order, bid package or other designation subject
152 to the provisions of this section, such agent shall certify to the Labor
153 Commissioner, either in writing or electronically, the total dollar
154 amount of work to be done in connection with such public works
155 project, regardless of whether such project consists of one or more
156 contracts. Upon the award of any contract subject to the provisions of
157 this section, the contractor to whom such contract is awarded shall
158 certify, under oath, to the Labor Commissioner the pay scale to be used
159 by such contractor and any of the contractor's subcontractors for work
160 to be performed under such contract.

161 (f) Each employer subject to the provisions of this section, section
162 31-53c or 31-54 shall (1) keep, maintain and preserve such records
163 relating to the wages and hours worked by each person performing the
164 work of any mechanic, laborer and worker and a schedule of the
165 occupation or work classification at which each person performing the
166 work of any mechanic, laborer or worker on the project is employed
167 during each work day and week in such manner and form as the Labor
168 Commissioner establishes to assure the proper payments due to such
169 persons or employee welfare funds under this section, section 31-53c
170 or 31-54, regardless of any contractual relationship alleged to exist
171 between the contractor and such person, provided such employer shall
172 have the option of keeping, maintaining and preserving such records
173 in an electronic format, and (2) submit monthly to the contracting
174 agency or the Department of Economic and Community Development
175 pursuant to section 31-53c by mail, electronic mail or other method
176 accepted by such agency or the Department of Economic and
177 Community Development, a certified payroll that shall consist of a

178 complete copy of such records accompanied by a statement signed by
179 the employer that indicates (A) such records are correct; (B) the rate of
180 wages paid to each person performing the work of any mechanic,
181 laborer or worker and the amount of payment or contributions paid or
182 payable on behalf of each such person to any employee welfare fund,
183 as defined in subsection (i) of this section, are not less than the
184 prevailing rate of wages and the amount of payment or contributions
185 paid or payable on behalf of each such person to any employee welfare
186 fund, as determined by the Labor Commissioner pursuant to
187 subsection (d) of this section, and not less than those required by the
188 contract to be paid; (C) the employer has complied with the provisions
189 of this section, section 31-53c and 31-54; (D) each such person is
190 covered by a workers' compensation insurance policy for the duration
191 of such person's employment, which shall be demonstrated by
192 submitting to the contracting agency the name of the workers'
193 compensation insurance carrier covering each such person, the
194 effective and expiration dates of each policy and each policy number;
195 (E) the employer does not receive kickbacks, as defined in 41 USC 52,
196 from any employee or employee welfare fund; and (F) pursuant to the
197 provisions of section 53a-157a, the employer is aware that filing a
198 certified payroll which the employer knows to be false is a class D
199 felony for which the employer may be fined up to five thousand
200 dollars, imprisoned for up to five years, or both. This subsection shall
201 not be construed to prohibit a general contractor from relying on the
202 certification of a lower tier subcontractor, provided the general
203 contractor shall not be exempted from the provisions of section 53a-
204 157a if the general contractor knowingly relies upon a subcontractor's
205 false certification. Notwithstanding the provisions of section 1-210, the
206 certified payroll shall be considered a public record and every person
207 shall have the right to inspect and copy such records in accordance
208 with the provisions of section 1-212. The provisions of subsections (a)
209 and (b) of section 31-59 and sections 31-66 and 31-69 that are not
210 inconsistent with the provisions of this section, section 31-53c or 31-54
211 apply to this section. Failing to file a certified payroll pursuant to
212 subdivision (2) of this subsection is a class D felony for which the

213 employer may be fined up to five thousand dollars, imprisoned for up
214 to five years, or both.

215 (g) Any contractor who is required by the Labor Department to
216 make any payment as a result of a subcontractor's failure to pay wages
217 or benefits, or any subcontractor who is required by the Labor
218 Department to make any payment as a result of a lower tier
219 subcontractor's failure to pay wages or benefits, may bring a civil
220 action in the Superior Court to recover no more than the damages
221 sustained by reason of making such payment, together with costs and
222 a reasonable attorney's fee.

223 (h) (1) The provisions of this section shall not apply where (A) the
224 combined total cost or total bond authorization for all work to be
225 performed by all contractors and subcontractors in connection with
226 new construction of any public works project is less than one million
227 dollars, or (B) the combined total cost of all work to be performed by
228 all contractors and subcontractors in connection with any remodeling,
229 refinishing, refurbishing, rehabilitation, alteration or repair of any
230 public works project is less than one hundred thousand dollars.

231 (2) [From the effective date of this section until] On and after
232 October 31, 2017, and prior to July 1, 2019, the provisions of this
233 subdivision shall not apply where the work to be performed by any
234 contractor or subcontractor in connection with new construction,
235 remodeling, refinishing, refurbishing, rehabilitation, alteration or
236 repair of any public works project funded in whole or in part by any
237 private bequest that is greater than nine million dollars but less than
238 twelve million dollars for a municipality in New Haven County with a
239 population of not less than twelve thousand and not more than
240 thirteen thousand, as determined by the most recent population
241 estimate by the Department of Public Health.

242 (3) On and after July 1, 2019, and prior to January 1, 2020, the
243 provisions of this subdivision shall not apply where the work to be
244 performed by any contractor or subcontractor in connection with new

245 construction, remodeling, refinishing, refurbishing, rehabilitation,
 246 alteration or repair of any public works project funded in whole or in
 247 part by any private bequest that is greater than nine million dollars but
 248 less than twenty-two million dollars for a municipality in New Haven
 249 County with a population of not less than twelve thousand and not
 250 more than thirteen thousand, as determined by the most recent
 251 population estimate by the Department of Public Health.

252 (i) As used in this section [, section] and sections 31-53c and 31-54,
 253 "employee welfare fund" means any trust fund established by one or
 254 more employers and one or more labor organizations or one or more
 255 other third parties not affiliated with the employers to provide from
 256 moneys in the fund, whether through the purchase of insurance or
 257 annuity contracts or otherwise, benefits under an employee welfare
 258 plan; provided such term shall not include any such fund where the
 259 trustee, or all of the trustees, are subject to supervision by the Banking
 260 Commissioner of this state or any other state or the Comptroller of the
 261 Currency of the United States or the Board of Governors of the Federal
 262 Reserve System, and "benefits under an employee welfare plan" means
 263 one or more benefits or services under any plan established or
 264 maintained for persons performing the work of any mechanics,
 265 laborers or workers or their families or dependents, or for both,
 266 including, but not limited to, medical, surgical or hospital care
 267 benefits; benefits in the event of sickness, accident, disability or death;
 268 benefits in the event of unemployment, or retirement benefits."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	38a-477cc
Sec. 2	July 1, 2019	31-53