

# Insurance and Real Estate Committee

## SENATE FAVORABLE REPORT

**Bill No.:** SB-321

AN ACT CONCERNING THE BURDEN OF PROOF DURING ADVERSE

**Title:** DETERMINATION AND UTILIZATION REVIEWS.

**Vote Date:** 3/10/2020

**Vote Action:** Joint Favorable

**PH Date:** 3/5/2020

**File No.:**

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### SPONSORS OF BILL:

Insurance and Real Estate Committee  
Senator Martin Looney

### REASONS FOR BILL:

This bill would require health carriers to provide a detailed analysis as to why a procedure would be unnecessary. Currently, health carriers are able to exercise discretion in deeming a visit, procedure, appointment, etcetera as medically unnecessary. This bill would shift responsibility to health carriers to prove their conclusion.

### RESPONSE FROM ADMINISTRATION/AGENCY:

[Office of the Healthcare Advocate](#): OHA has offered testimony in opposition of this bill. This bill would create a presumption that any procedure treated by a physician is deemed medically necessary. It would shift burden onto insurers to disprove a treating physician's judgement. OHA has stated medical necessity denials are overturned on appeal at a high rate. The agency believes it would not result in a significant overall rate.

### NATURE AND SOURCES OF SUPPORT:

[Connecticut Orthopaedic Society, Michael Aronow, M.D., President](#): Dr. Aronow writes in support of this patient-centered bill. The current law has a negative impact on the efficient and effective care of patients. He states a health insurance company can deem any practice as medically unnecessary, leaving patients postponing treatment and suffer permanent or irreversible harm. Dr. Aronow identified limited knowledge of medical treatments by health care providers, whereas doctors rely on sources such as education, expertise, clinical guidelines, and best practices to formulize a treatment plan.

[National Alliance on Mental Illness-Connecticut, Lisa Winjum, JD, Executive Director](#): NAMI identifies time lapsed in seeking appeals for patients with mental health issues. They testify time is critical as mental health conditions include suicidal ideations, and delay in treatment could result to lost lives if left untreated. Ms. Winjum reiterates this bill would allow medical professionals to make decisions while placing a burden of proof on insurance companies to substantiate the reasons a person does not need the care.

[David Leeds](#): Mr. Leeds testified constituents with rare conditions are at a disadvantage with health care providers. A person with a rare condition seeks a specialist. 90% of rare diseases have been identified by a FDA treatment. Because of the rarity, treatments may be deemed unnecessary due to lack of knowledge. Patients with rare diseases rely on specialists to form a care plan to alleviate pain and complications.

#### **NATURE AND SOURCES OF OPPOSITION:**

[Connecticut Association of Health Plans](#): Current legislation provides strict regulation and serves as a model for the country. CAHP testified a 50% appeal, indicating the current process is fairly arbitrating matters of legitimate dispute. They identify this requirement as the single most expensive mandate ever passed. CAHP argues treatment costs above and beyond ACA's designated essential health benefits do not receive federal funding.

[Connecticut Business and Industry Association, Michelle Rakebrand, Assistant Counsel](#): CBIA opposes the change in process on the part of health plans. This legislation would require carriers to incur further costs that will be passed on to small businesses. This bill would be costly to carriers due to the development and implementation of a determination process.

**Reported by: Cassandra Gallion**

**Date: March 21, 2020**