



General Assembly

January Session, 2021

Raised Bill No. 6622

LCO No. 3861



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING PRESCRIPTION DRUG FORMULARIES AND
LISTS OF COVERED DRUGS.***

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

1 Section 1. Section 38a-1 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2022*):

3 Terms used in this title and section 2 of this act, unless it appears from
4 the context to the contrary, shall have a scope and meaning as set forth
5 in this section.

6 (1) "Affiliate" or "affiliated" means a person that directly, or indirectly
7 through one or more intermediaries, controls, is controlled by or is
8 under common control with another person.

9 (2) "Alien insurer" means any insurer that has been chartered by or
10 organized or constituted within or under the laws of any jurisdiction or
11 country without the United States.

12 (3) "Annuities" means all agreements to make periodical payments
13 where the making or continuance of all or some of the series of the

14 payments, or the amount of the payment, is dependent upon the
15 continuance of human life or is for a specified term of years. This
16 definition does not apply to payments made under a policy of life
17 insurance.

18 (4) "Commissioner" means the Insurance Commissioner.

19 (5) "Control", "controlled by" or "under common control with" means
20 the possession, direct or indirect, of the power to direct or cause the
21 direction of the management and policies of a person, whether through
22 the ownership of voting securities, by contract other than a commercial
23 contract for goods or nonmanagement services, or otherwise, unless the
24 power is the result of an official position with the person.

25 (6) "Domestic insurer" means any insurer that has been chartered by,
26 incorporated, organized or constituted within or under the laws of this
27 state.

28 (7) "Domestic surplus lines insurer" means any domestic insurer that
29 has been authorized by the commissioner to write surplus lines
30 insurance.

31 (8) "Foreign country" means any jurisdiction not in any state, district
32 or territory of the United States.

33 (9) "Foreign insurer" means any insurer that has been chartered by or
34 organized or constituted within or under the laws of another state or a
35 territory of the United States.

36 (10) "Insolvency" or "insolvent" means, for any insurer, that it is
37 unable to pay its obligations when they are due, or when its admitted
38 assets do not exceed its liabilities plus the greater of: (A) Capital and
39 surplus required by law for its organization and continued operation;
40 or (B) the total par or stated value of its authorized and issued capital
41 stock. For purposes of this subdivision "liabilities" shall include but not
42 be limited to reserves required by statute or by regulations adopted by
43 the commissioner in accordance with the provisions of chapter 54 or

44 specific requirements imposed by the commissioner upon a subject
45 company at the time of admission or subsequent thereto.

46 (11) "Insurance" means any agreement to pay a sum of money,
47 provide services or any other thing of value on the happening of a
48 particular event or contingency or to provide indemnity for loss in
49 respect to a specified subject by specified perils in return for a
50 consideration. In any contract of insurance, an insured shall have an
51 interest which is subject to a risk of loss through destruction or
52 impairment of that interest, which risk is assumed by the insurer and
53 such assumption shall be part of a general scheme to distribute losses
54 among a large group of persons bearing similar risks in return for a
55 ratable contribution or other consideration.

56 (12) "Insurer" or "insurance company" includes any person or
57 combination of persons doing any kind or form of insurance business
58 other than a fraternal benefit society, and shall include a receiver of any
59 insurer when the context reasonably permits.

60 (13) "Insured" means a person to whom or for whose benefit an
61 insurer makes a promise in an insurance policy. The term includes
62 policyholders, subscribers, members and beneficiaries. This definition
63 applies only to the provisions of this title and does not define the
64 meaning of this word as used in insurance policies or certificates.

65 (14) "Life insurance" means insurance on human lives and insurances
66 pertaining to or connected with human life. The business of life
67 insurance includes granting endowment benefits, granting additional
68 benefits in the event of death by accident or accidental means, granting
69 additional benefits in the event of the total and permanent disability of
70 the insured, and providing optional methods of settlement of proceeds.
71 Life insurance includes burial contracts to the extent provided by
72 section 38a-464.

73 (15) "Mutual insurer" means any insurer without capital stock, the
74 managing directors or officers of which are elected by its members.

75 (16) "Person" means an individual, a corporation, a partnership, a
76 limited liability company, an association, a joint stock company, a
77 business trust, an unincorporated organization or other legal entity.

78 (17) "Policy" means any document, including attached endorsements
79 and riders, purporting to be an enforceable contract, which
80 memorializes in writing some or all of the terms of an insurance
81 contract.

82 (18) "State" means any state, district, or territory of the United States.

83 (19) "Subsidiary" of a specified person means an affiliate controlled
84 by the person directly, or indirectly through one or more intermediaries.

85 (20) "Unauthorized insurer" or "nonadmitted insurer" means an
86 insurer that has not been granted a certificate of authority by the
87 commissioner to transact the business of insurance in this state or an
88 insurer transacting business not authorized by a valid certificate.

89 (21) "United States" means the United States of America, its territories
90 and possessions, the Commonwealth of Puerto Rico and the District of
91 Columbia.

92 Sec. 2. (NEW) (*Effective January 1, 2022*) (a) For the purposes of this
93 section:

94 (1) "Affordable Care Act" has the same meaning as provided in
95 section 38a-1080 of the general statutes;

96 (2) "Health benefit plan" has the same meaning as provided in section
97 38a-1080 of the general statutes, except that such term shall not include
98 a grandfathered health plan as such term is used in the Affordable Care
99 Act; and

100 (3) "Health carrier" has the same meaning as provided in section 38a-
101 1080 of the general statutes.

102 (b) Notwithstanding any provision of the general statutes and except

103 as provided in subsection (c) of this section, no health carrier offering a
104 health benefit plan in this state on or after January 1, 2022, that includes
105 a pharmacy benefit and uses a drug formulary or list of covered drugs
106 may:

107 (1) Remove a prescription drug from the drug formulary or list of
108 covered drugs during a plan year; or

109 (2) Move a prescription drug from a cost-sharing tier that imposes a
110 lesser coinsurance, copayment or deductible for the prescription drug to
111 a cost-sharing tier that imposes a greater coinsurance, copayment or
112 deductible for the prescription drug during a plan year, unless the
113 prescription drug is subject to an in-network coinsurance, copayment or
114 deductible that is not greater than forty dollars per prescription per
115 month in any tier.

116 (c) A health carrier offering a health benefit plan in this state on or
117 after January 1, 2022, that includes a pharmacy benefit and uses a drug
118 formulary or list of covered drugs may:

119 (1) Remove a prescription drug from the drug formulary or list of
120 covered drugs, upon at least ninety days' advance notice to a covered
121 person and the covered person's treating physician, if:

122 (A) The federal Food and Drug Administration issues an
123 announcement, guidance, notice, warning or statement concerning the
124 prescription drug that calls into question the clinical safety of the
125 prescription drug, unless the covered person's treating physician states,
126 in writing, that the prescription drug remains medically necessary
127 despite such announcement, guidance, notice, warning or statement; or

128 (B) The prescription drug is approved by the federal Food and Drug
129 Administration for use without a prescription; and

130 (2) Move a brand-name prescription drug from a cost-sharing tier
131 that imposes a lesser coinsurance, copayment or deductible for the
132 brand-name prescription drug to a cost-sharing tier that imposes a

133 greater coinsurance, copayment or deductible for the brand-name
134 prescription drug if the health carrier adds to the drug formulary or list
135 of covered drugs a generic prescription drug that is:

136 (A) Approved by the federal Food and Drug Administration for use
137 as an alternative to such brand-name prescription drug; and

138 (B) In a cost-sharing tier that imposes a coinsurance, copayment or
139 deductible for the generic prescription drug that is lesser than the
140 coinsurance, copayment or deductible that is imposed for such brand-
141 name prescription drug.

142 (d) Nothing in this section shall prevent or prohibit a health carrier
143 from adding a prescription drug to a formulary or list of covered drugs
144 at any time.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2022</i>	38a-1
Sec. 2	<i>January 1, 2022</i>	New section

Statement of Purpose:

To limit the circumstances in which a health carrier may remove a prescription drug from a drug formulary or list of covered drugs, or move a prescription drug to a different cost-sharing tier, during a plan year.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]