



General Assembly

Amendment

February Session, 2022

LCO No. 6174



Offered by:
SEN. BERTHEL, 32nd Dist.

To: Subst. Senate Bill No. 355

File No. 354

Cal. No. 252

**"AN ACT ESTABLISHING THE 340B DRUG PRICING
NONDISCRIMINATION ACT."**

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

3 "Section 1. Section 38a-21 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2022*):

5 (a) As used in this section:

6 (1) "Commissioner" means the Insurance Commissioner.

7 (2) "Mandated health benefit" means [an existing statutory obligation
8 of, or] proposed legislation that would require [,] an insurer, health care
9 center, hospital service corporation, medical service corporation,
10 fraternal benefit society or other entity that offers individual or group
11 health insurance or medical or health care benefits plan in this state to:
12 [(A) Permit an insured or enrollee to obtain health care treatment or
13 services from a particular type of health care provider; (B) offer or

14 provide coverage for the screening, diagnosis or treatment of a
15 particular disease or condition; or (C)] offer or provide coverage for a
16 particular type of health care treatment or service, or for medical
17 equipment, medical supplies or drugs used in connection with a health
18 care treatment or service. ["Mandated health benefit" includes any
19 proposed legislation to expand or repeal an existing statutory obligation
20 relating to health insurance coverage or medical benefits.]

21 (b) (1) There is established within the Insurance Department a health
22 benefit review program for the review and evaluation of any mandated
23 health benefit that is requested by the joint standing committee of the
24 General Assembly having cognizance of matters relating to insurance.
25 Such program shall be funded by the Insurance Fund established under
26 section 38a-52a. The commissioner shall be authorized to make
27 assessments in a manner consistent with the provisions of chapter 698
28 for the costs of carrying out the requirements of this section. Such
29 assessments shall be in addition to any other taxes, fees and moneys
30 otherwise payable to the state. The commissioner shall deposit all
31 payments made under this section with the State Treasurer. The moneys
32 deposited shall be credited to the Insurance Fund and shall be accounted
33 for as expenses recovered from insurance companies. Such moneys shall
34 be expended by the commissioner to carry out the provisions of this
35 section and section 2 of public act 09-179.

36 (2) The commissioner [shall] may contract with The University of
37 Connecticut Center for Public Health and Health Policy or an actuarial
38 accounting firm to conduct any mandated health benefit review
39 requested pursuant to subsection (c) of this section. The director of said
40 center may engage the services of an actuary, quality improvement
41 clearinghouse, health policy research organization or any other
42 independent expert, and may engage or consult with any dean, faculty
43 or other personnel said director deems appropriate within The
44 University of Connecticut schools and colleges, including, but not
45 limited to, The University of Connecticut (A) School of Business, (B)
46 School of Dental Medicine, (C) School of Law, (D) School of Medicine,
47 and (E) School of Pharmacy.

48 [(c) Not later than August first of each year, the joint standing
49 committee of the General Assembly having cognizance of matters
50 relating to insurance shall submit to the commissioner a list of any
51 mandated health benefits for which said committee is requesting a
52 review. Not later than January first of the succeeding year, the
53 commissioner shall submit a report, in accordance with section 11-4a, of
54 the findings of such review and the information set forth in subsection
55 (d) of this section.

56 (d) The review report shall include at least the following, to the extent
57 information is available:

58 (1) The social impact of mandating the benefit, including:]

59 (c) During a regular session of the General Assembly, the joint
60 standing committee of the General Assembly having cognizance of
61 matters relating to insurance may, upon a majority vote of its members,
62 require the commissioner to conduct one review of not more than five
63 mandated health benefits. The committee shall submit to the
64 commissioner a list of the mandated health benefits to be reviewed.

65 (d) Not later than January first of the first calendar year following a
66 request for review made under subsection (c) of this section, the
67 commissioner shall submit a mandated health benefit review report, in
68 accordance with section 11-4a, to the joint standing committees of the
69 General Assembly having cognizance of matters relating to insurance
70 and public health. Such report shall include an evaluation of the quality
71 and cost impacts of mandating the benefit, including:

72 [(A)] (1) The extent to which the treatment, service or equipment,
73 supplies or drugs, as applicable, is utilized by a significant portion of
74 the population;

75 [(B)] (2) The extent to which the treatment, service or equipment,
76 supplies or drugs, as applicable, is currently available to the population,
77 including, but not limited to, coverage under Medicare, or through
78 public programs administered by charities, public schools, the

79 Department of Public Health, municipal health departments or health
80 districts or the Department of Social Services;

81 [(C)] (3) The extent to which insurance coverage is already available
82 for the treatment, service or equipment, supplies or drugs, as applicable;

83 [(D) If the coverage is not generally available, the extent to which
84 such lack of coverage results in persons being unable to obtain necessary
85 health care treatment;

86 (E) If the coverage is not generally available, the extent to which such
87 lack of coverage results in unreasonable financial hardships on those
88 persons needing treatment;

89 (F) The level of public demand and the level of demand from
90 providers for the treatment, service or equipment, supplies or drugs, as
91 applicable;

92 (G) The level of public demand and the level of demand from
93 providers for insurance coverage for the treatment, service or
94 equipment, supplies or drugs, as applicable;

95 (H) The likelihood of achieving the objectives of meeting a consumer
96 need as evidenced by the experience of other states;

97 (I) The relevant findings of state agencies or other appropriate public
98 organizations relating to the social impact of the mandated health
99 benefit;

100 (J) The alternatives to meeting the identified need, including, but not
101 limited to, other treatments, methods or procedures;

102 (K) Whether the benefit is a medical or a broader social need and
103 whether it is consistent with the role of health insurance and the concept
104 of managed care;

105 (L) The potential social implications of the coverage with respect to
106 the direct or specific creation of a comparable mandated benefit for

107 similar diseases, illnesses or conditions;

108 (M) The impact of the benefit on the availability of other benefits
109 currently offered;

110 (N) The impact of the benefit as it relates to employers shifting to self-
111 insured plans and the extent to which the benefit is currently being
112 offered by employers with self-insured plans;]

113 [(O)] (4) The impact of making the benefit applicable to the state
114 employee health insurance or health benefits plan; [and]

115 [(P)] (5) The extent to which credible scientific evidence published in
116 peer-reviewed medical literature generally recognized by the relevant
117 medical community determines the treatment, service or equipment,
118 supplies or drugs, as applicable, to be safe and effective; [and]

119 [(2) The financial impact of mandating the benefit, including:]

120 [(A)] (6) The extent to which the mandated health benefit may
121 increase or decrease the cost of the treatment, service or equipment,
122 supplies or drugs, as applicable, over the next five years;

123 [(B)] (7) The extent to which the mandated health benefit may
124 increase the appropriate or inappropriate use of the treatment, service
125 or equipment, supplies or drugs, as applicable, over the next five years;

126 [(C)] (8) The extent to which the mandated health benefit may serve
127 as an alternative for more expensive or less expensive treatment, service
128 or equipment, supplies or drugs, as applicable;

129 [(D)] (9) The methods that will be implemented to manage the
130 utilization and costs of the mandated health benefit;

131 [(E)] (10) The extent to which insurance coverage for the treatment,
132 service or equipment, supplies or drugs, as applicable, may be
133 reasonably expected to increase or decrease the insurance premiums
134 and administrative expenses for policyholders;

135 [(F)] (11) The extent to which the treatment, service or equipment,
136 supplies or drugs, as applicable, is more or less expensive than an
137 existing treatment, service or equipment, supplies or drugs, as
138 applicable, that is determined to be equally safe and effective by credible
139 scientific evidence published in peer-reviewed medical literature
140 generally recognized by the relevant medical community;

141 [(G)] (12) The impact of insurance coverage for the treatment, service
142 or equipment, supplies or drugs, as applicable, on the total cost of health
143 care, including potential benefits or savings to insurers and employers
144 resulting from prevention or early detection of disease or illness related
145 to such coverage;

146 [(H)] (13) The impact of the mandated health care benefit on the cost
147 of health care for small employers, as defined in section 38a-564, and for
148 employers other than small employers; and

149 [(I)] (14) The impact of the mandated health benefit on cost-shifting
150 between private and public payors of health care coverage and on the
151 overall cost of the health care delivery system in the state.

152 (e) The joint standing committees of the General Assembly having
153 cognizance of matters relating to insurance and public health shall
154 conduct a joint informational hearing following their receipt of a
155 mandated health benefit review report submitted by the commissioner
156 pursuant to subsection (d) of this section. The commissioner shall attend
157 and be available for questions from the members of the committees at
158 such hearing. On and after January 1, 2023, the General Assembly shall
159 not enact legislation to establish a mandated health benefit unless (1)
160 such benefit has been the subject of a report and an informational
161 hearing as provided in this section, or (2) upon a two-thirds vote of the
162 members of the joint standing committee of the General Assembly
163 having cognizance of matters relating to insurance.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2022</i>	38a-21
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