
OLR Bill Analysis

sSB 1039 (File 385, as amended by Senate "A")*

AN ACT CONCERNING THE INSURANCE DEPARTMENT'S RECOMMENDATIONS REGARDING FINANCIAL REGULATION, LIFE INSURANCE AND INSURANCE LICENSING REQUIREMENTS AND TECHNICAL CORRECTIONS TO THE LIFE AND HEALTH INSURANCE STATUTES.

SUMMARY

This bill prohibits certain health insurance policies, beginning January 1, 2024, from discriminating between people on the basis of gender identity or expression, sexual orientation, or age with respect to health insurance coverage for medically necessary infertility diagnosis and treatment. It also revises the allowed parameters for a policy to cover infertility-related expenses to conform to the federal Affordable Care Act (§§ 11 & 12).

This bill also makes a number of unrelated changes to the insurance statutes. Specifically, it does the following:

1. authorizes the insurance commissioner to require people and entities required to pay fees to the Insurance Department to do so electronically and establishes a waiver process for the requirement (§ 1);
2. requires certified reinsurers and reciprocal jurisdiction reinsurers to pay the Insurance Department a fee of \$2,000 for each regulatory certificate issued and renewed (§ 1);
3. allows a non-resident persons or entities to get a nonresident state license here in Connecticut and designate it as their home state if their resident state does not offer the same or equivalent license (§ 2);
4. makes explicit that certain provisions of the general licensing

statute apply to any licensee or license applicant, including an insurance producer licensee or applicant (§ 2); and

5. makes technical corrections to the applicability of the health insurance statutes requiring dependent coverage, specifically by removing applicability to accident-only policies, which do not cover a dependent's illness-related expenses (§§ 3-10).

*Senate Amendment "A" prohibits insurers from discriminating on the basis of sexual orientation, instead of on the basis of sex as in the underlying bill, when providing coverage for infertility treatment. It also makes technical changes.

EFFECTIVE DATE: October 1, 2023

§ 1 — STATUTORY INSURANCE FEES

Electronic Payment

The bill authorizes the insurance commissioner to require people and entities that must pay fees to the Insurance Department under state law to pay them electronically. However, the commissioner must waive this requirement for any person or entity that requests it if he determines that (1) compliance is impractical or causes undue hardship or (2) good cause otherwise exists.

Reinsurer Fees

The bill adds two fees to the list of statutory insurance fees. Specifically, it requires certified reinsurers and reciprocal jurisdiction reinsurers to pay the Insurance Department \$2,000 for each certificate issued and renewed. State law and regulations require these reinsurers to apply to the department for certification.

§ 2 — INSURANCE LICENSURE REQUIREMENTS

Non-Resident Licenses

The bill specifies requirements for people or entities who are eligible to get certain non-resident licenses from the Insurance Department. It allows non-resident persons or entities to apply for and get a nonresident state license here and designate Connecticut as their home

state if their resident state does not offer the same or equivalent resident license and they maintain a principal place of business in Connecticut.

This applies to the following licenses: public adjuster, casualty adjuster, motor vehicle physical damage appraiser, certified insurance consultant, surplus lines broker, or any insurance-related occupation for which a license is deemed necessary by the commissioner, other than an insurance producer.

Insurance Producers

In 2014, a Connecticut court ruled that because the legislature adopted specific insurance producer requirements in 2001 (PA 01-113), the general licensing statute does not apply to insurance producers (*Lagueux v. Leonardi*, 148 Conn. App. 234 (2014)). The bill makes explicit that certain provisions of the general insurance licensing statute (i.e., CGS § 38a-769(b)-(i)) apply to any licensee or license applicant, including an insurance producer licensee or applicant. By law, this includes the requirement that the applicant prove to the commissioner that he or she is financially responsible and of sound moral character.

§§ 11 & 12 — MANDATED HEALTH INSURANCE COVERAGE FOR INFERTILITY DIAGNOSIS AND TREATMENT

Changes to Conform to Federal Law

By law, certain individual and group health insurance policies must cover the medically necessary costs of diagnosing and treating infertility. Current law allows insurers to impose certain limits on the coverage (e.g., number of attempts, among other things). The bill eliminates the ability of a policy to (1) limit infertility coverage to those (a) under age 40 and (b) who had coverage under the policy for at least 12 months and (2) require an insured to disclose any previous infertility treatment covered under a different policy.

These changes generally conform the coverage provision to the federal Affordable Care Act and codify the Insurance Department's Bulletin HC-104 (2015).

The law, unchanged by the act, allows religious employers and

individuals to exclude infertility coverage from their policies if it is contrary to their religious tenets.

By law, “infertility” means being unable to conceive or produce conception or sustain a successful pregnancy during a one-year period or the treatment is medically necessary.

Nondiscrimination Provision

The bill prohibits certain individual and group health insurance policies from discriminating between people on the basis of gender identity or expression, sexual orientation, or age with respect to health insurance coverage for medically necessary infertility diagnosis and treatment. However, a policy may consider age as a factor when determining medical necessity, using guidelines from the American Society for Reproductive Medicine or a comparable organization.

Under the bill, this nondiscrimination provision does not apply when a religious employer or individual excludes infertility coverage from a policy due to their religious tenets.

The law defines “gender identity or expression” as a person’s gender-related identity, appearance, or behavior, whether or not it differs from that traditionally associated with the person’s physiology or assigned sex at birth. The definition specifies that gender-related identity can be shown by providing evidence in various ways, including (1) medical history; (2) care or treatment of the gender-related identity; (3) consistent and uniform assertion of the identity; or (4) any other evidence that the identity is sincerely held, part of a person’s core identity, or not asserted for an improper purpose.

Applicability

The bill applies the federal law to conforming changes to policies delivered, issued, renewed, amended, or continued in Connecticut on and after October 1, 2023, that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. It applies the nondiscrimination provision to these policies that are

delivered, issued, renewed, amended, or continued in Connecticut on and after January 1, 2024.

Because of the federal Employee Retirement Income Security Act, state insurance benefit mandates do not apply to self-insured benefit plans.

BACKGROUND

Related Bill

sHB 6617 (File 710), favorably reported by the Appropriations and Human Services committees, repeals the infertility treatment coverage mandate and replaces it with coverage requirements for fertility care.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 11 Nay 1 (03/16/2023)