

Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

INSURANCE



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2006-R-0353

June 2, 2006

NOTICE TO READERS

This report provides brief highlights of new laws (public acts) affecting private insurance during the 2006 session. At the end of each summary we indicate the bill number or, if one is already available, public act (PA) number. At this point, not all acts have yet been signed by the governor.

Not all provisions of the acts are included here. Complete summaries of all 2006 public acts will be available in the fall when OLR's *Public Act Summary* book is published; some are already on OLR's webpage:

<http://www.cga.ct.gov/olr/OLRPASums.asp>

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website: <http://www.cga.ct.gov/>

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LIFE INSURANCE

This act limits a life insurer's ability to underwrite a policy based on a person's past or future travel to a lawful destination. Under the act, an insurer cannot, on the basis of an applicant's or insured's past or future lawful travel destination, (1) deny or refuse to accept a life insurance application; (2) charge different premiums or rates for a life insurance policy; or (3) cancel, restrict, terminate, or not renew a policy. However, an insurer may deny an application or charge a different premium or rate based on a person's specific lawful travel destination if the action is (1) based on sound actuarial principles or (2) related to actual or reasonably anticipated experience. **(PA 06-5, effective upon passage)**

HEALTH INSURANCE

Access to Records

This act gives the Department of Public Health access to records maintained by insurance companies for review during the course of an investigation of a health care practitioner. **(PA 06-195, § 17, effective October 1, 2006)**

Appeal Information

This act requires a managed care organization (MCO) or health insurer to provide information regarding a self-insured governmental health plan under which an appeal is made within five business days of receiving a request and to notify the plan sponsor that it must send a copy of the policy or contract. **(PA 06-54, upon passage)**

Assessments for Immunizations

This act removes the cap on the amount each Connecticut insurance company and HMO must pay for immunization services that the Department of Public Health provides. Prior law capped the amount paid by any one company at 25% of the expenditures of the Insurance Department and the Office of the Healthcare Advocate. The act requires each company to pay a proportionate share of the total due from all insurers and HMOs. That proportion is based on the company's share of total premium taxes and other charges the state imposes on all insurers and HMOs for business conducted in Connecticut during the previous calendar year. **(PA 06-113, effective July 1, 2006)**

Breast Cancer Screening

This act requires health insurance policies to provide coverage for a comprehensive ultrasound screening of a woman's entire breast or breasts if (1) a mammogram shows heterogeneous or dense breast tissue based on the American College of Radiology's Breast Imaging Reporting and Database System (BI-RADS) mammogram reading scale or (2) a woman is considered at an increased breast cancer risk because of family history, her own prior breast cancer history, positive genetic testing, or other indications determined by her physician or advanced-practice registered nurse. Coverage is subject to any policy provisions applicable to other covered services and is in addition to coverage required for mammograms. **(PA 06-38**, effective October 1, 2006)

Children and Youth with Cancer

This act requires health insurance policies to provide coverage for (1) neuropsychological testing of children diagnosed with cancer after December 31, 1999 and (2) tests a licensed physician orders to assess the extent chemotherapy or radiation treatment has caused the child to have cognitive or developmental delays. They may not require prior authorization for the tests.

(PA 06-131, effective October 1, 2006)

Copayments for Imaging Services

This act limits the copayments that can be imposed on a person for MRIs, CAT scans, and PET scans performed in-network. It limits the copayments for MRIs and CAT scans to no more than (1) \$375 for all such services annually and (2) \$75 for each one. It limits the copayments for PET scans to no more than (1) \$400 for all such scans annually and (2) \$100 for each one.

These copayment limits do not apply (1) if the physician ordering the imaging service performs it or is in the same practice group as the physician who performs it and (2) to high deductible health plans designed to be compatible with federally qualified health savings accounts. **(PA 06-180**, effective October 1, 2006)

Direct Access to Physical Therapists

This act allows physical therapists to treat patients directly, without referral from another health care practitioner, except for a workers' compensation injury or a Grade V spinal manipulation, if he (1) earned a master's or higher degree in physical therapy from an accredited college or university or (2) was admitted to a bachelor's degree program before January 1, 1998 and has

practiced physical therapy for at least four of the last six years of clinical practice. It sets requirements a physical therapist must follow in treating patients directly and specifies that “physical therapy” does not include surgery; prescribing drugs; or diagnosing disease, injury, or illness. It also prohibits licensed physical therapists and physical therapist assistants from using the terms “chiropractic adjustment or manipulation.” **(PA 06-125, as amended by § 82 of PA 06-195, effective October 1, 2006)**

Injured and Under the Influence

This act prohibits health insurance policies from denying coverage for health care services rendered to an injured insured person if the injury is alleged to have occurred or occurs when the person has an elevated blood alcohol content level (0.08% or more) or is under the influence of drugs or alcohol. **(PA 06-39, effective October 1, 2006)**

Kidney Disease Screening

This act imposes certain requirements, beginning September 1, 2006, on licensed physicians, hospitals, and clinical laboratories concerning testing of patients age 18 and older for kidney disease.

It requires physicians to order a serum creatinine test as part of the patient’s annual physical

examination if the patient has not had such a test within the preceding 12 months. It requires hospitals to order this test for each patient admitted to the hospital, at least once during the patient’s stay. For a patient admitted to a hospital, the ordering provider must request at least once during the patient’s stay that the testing laboratory report an estimated glomerular filtration rate, which is a measure of how effectively the kidneys are removing waste and excess fluid from the blood. **(PA 06-120, as amended by PA 06-195, § 53, effective upon passage)**

Municipal Retiree Health Insurance Benefits

This act bars municipalities, housing authorities, and other municipal subdivisions from eliminating or reducing group health insurance benefits to municipal retirees in violation of a union contract. It applies to municipalities that arrange for health insurance on their own or through the state-sponsored Municipal Employee Health Insurance Program.

It specifically allows them to select a different insurance carrier for retirees if the benefits remain at least equivalent to those previously provided. But it prohibits selecting a new carrier in cases (1) where the retiree’s health benefits are provided through a union contract negotiated under the Municipal

Employee Relations Act and the contract is in effect on the date of the person's retirement and (2) the contract contains a provision specifying that retirees are entitled to the same health insurance benefits provided to active employees under the same contract. **(PA 06-123**, effective upon passage)

Physician Fees Paid by Insurer

This act requires each managed care organization and preferred provider network to implement a procedure by October 1, 2007 under which a contracted physician, physician group, or physician organization may confidentially view the fee schedule that determines the payment amount for the most commonly performed and billed services. **(PA 06-178**, effective October 1, 2006)

Preferred Provider Networks

This act excludes from the Connecticut insurance code's definition of a "preferred provider network" (PPN) clinical laboratories licensed by the Department of Public Health whose primary payments for contracted or referred services are made to other licensed laboratories or for associated pathology services. By law, the insurance commissioner licenses and regulates PPNs. Thus, the act excludes such laboratories from such PPN requirements. **(PA**

06-90, as amended by PA 06-196, effective upon passage)

Utilization Review Appeal Decision

Prior law required a utilization review company to have a licensed practitioner of the medical arts certify appeal determinations to disapprove an admission, service, procedure, or extended hospital stay. The act instead requires a licensed practitioner of the healing arts to certify the determination. Connecticut statutes define the practice of "healing arts" as the practice of medicine, chiropractic, podiatry, natureopathy, and optometry. **(PA 06-54**, effective October 1, 2006)

PROPERTY AND CASUALTY INSURANCE

Rate Filing Requirements

This act permits, from July 1, 2006 to July 1, 2009, property and casualty insurers, under certain conditions, to file new rates for personal lines (e.g., home, auto, marine, umbrella) with the Insurance Department and use them immediately without receiving prior approval if they result in a statewide rate increase or decrease of no more than 6% for all products included in the filing. A rate increase within the 6% band may only be effective on or after a policy renewal and after notifying the

insured. The act requires the commissioner to order the insurer to stop using a rate change within the 6% band on a specified future date if she determines it is inadequate or unfairly discriminatory. **(PA 06-104, effective July 1, 2006)**

Transfer of Insurance Policies to Affiliate

This act states that a property and casualty insurer, including a private passenger motor vehicle insurer, that transfers a policy to an affiliate insurer because of a merger or acquisition, does not have to send a policy cancellation or a cancellation notice to a policyholder if (1) there is no interruption of coverage and (2) the affiliate's policy contains the same terms, conditions, and provisions, including policy limits, as the transferred policy. It specifies that the affiliate (1) may apply its rates and rating plans when the policy renews and (2) must include in the policy renewal premium bill a notice that the policy was transferred from the other insurer. **(PA 06-109, effective October 1, 2006)**

Uninsured and Underinsured Motorist Benefits

The act requires a person, when making a claim to his automobile insurance company for uninsured or underinsured motorist benefits, to make reasonable efforts to determine what liability coverage exists for

both the owner and operator of the alleged uninsured or underinsured vehicle. For a motor vehicle accident occurring after September 30, 2006, it prohibits an insurance company from requiring a claimant, in order to be eligible for a benefit payment, to provide affidavits or written statements from the owner or operator regarding their uninsured or underinsured status at the time of the accident. **(PA 06-104, effective October 1, 2006)**

MALPRACTICE INSURANCE

Medical Malpractice Insurance Policies

This act limits the circumstances under which insurers must provide certain medical malpractice insurance coverage at no cost to physicians, surgeons, advanced practice registered nurses, physician assistants, and hospitals. It does this by (1) eliminating the requirement that policies issued on a claims-made basis provide prior acts coverage under certain circumstances and (2) changing the conditions under which policies must provide unlimited extended reporting period coverage.

It requires professional liability insurance policies issued on a claims-made basis to provide extended reporting period coverage at no additional charge if, while an insured is covered under the policy, (1) the insurer

stops offering policies in Connecticut because of a voluntary withdrawal from the state and (2) the insured is over age 60 or has been insured by the insurer for the five consecutive years immediately preceding the discontinuance. It requires the insurer to provide such coverage with equivalent terms and conditions and with an aggregate liability limit at least equal to the one specified in the policy. **(PA 06-108**, effective October 1, 2006)

Malpractice Insurance for Dentists

This act requires dentists who provide direct patient care services to maintain professional liability insurance or other indemnity against liability for professional malpractice of at least \$500,000 per person, per occurrence, with an aggregate of at least \$1.5 million. A dentist insured by a claims-made policy does not lose the right to unlimited additional extended reporting period coverage when he permanently retires from practice if he solely provides professional services without charge at a tax-exempt clinic. Each insurance company issuing such policies must annually provide the Department of Public Health with information on policies cancelled or not renewed in the preceding calendar year. **(PA 06-195, § 20**, effective October 1, 2006)

Malpractice Insurance for Physical Therapists

This act requires licensed physical therapists who provide direct patient care to maintain professional liability insurance or other indemnity against liability for professional malpractice of at least \$500,000 per person, per occurrence, with an aggregate of at least \$1.5 million. Each insurance company issuing such policies must annually provide the Department of Public Health with information on policies cancelled or not renewed in the preceding calendar year. **(PA 06-195, §§ 83 & 85**, effective October 1, 2006)

TAX CREDITS AGAINST INSURANCE PREMIUM TAX

Housing Tax Credit

This act increases the amount of tax credits available under, and expands the scope of, the state Rental Housing Assistance Trust Fund Program (popularly known as the Housing Tax Credit Program). Under this program, the Connecticut Housing Finance Authority (CHFA) allocates tax credits to businesses that contribute funds to nonprofit housing organizations developing low- and moderate-income housing.

Businesses eligible for these tax credits are insurance companies, hospitals, medical services corporations, air carriers, railroad companies,

cable and community antenna companies, utility companies, and any business that pays the corporation tax. (**PA 06-186, § 65**, effective July 1, 2006 and applicable to income years starting on or after January 1, 2006.)

Job Creation Tax Credit

This act establishes a credit against the insurance premium, corporation, or utility company tax for companies that (1) relocate to Connecticut; (2) create at least 50 new, full-time jobs here; and (3) hire new employees for those jobs and keep them employed for at least 12 months. The credit equals up to 25% of the state income tax withheld from the new employees' wages. For each new employee, the credit applies for five consecutive years. The act limits the annual credits for all companies awarded in any one fiscal year to \$10 million. Credits must be taken in the same income year as they are earned. Unused credits expire.

Companies must apply to the Department of Economic and Community Development commissioner for the credits. The commissioner may approve full or partial credits only if the proposed company relocation (1) is not economically viable without the credits and (2) provides a net benefit to economic development and employment in the state. (**PA 06-186, § 80**, effective July 1, 2006 and applicable to income years

starting on or after January 1, 2006.)

Displaced Worker Tax Credit

This act gives a \$1,500-per-worker business tax credit to companies that, on or after January 1, 2006, hire workers who (1) were employed in Connecticut and (2) were let go by a previous employer as direct result of a business restructuring in which at least 10 Connecticut workers were terminated by the same employer. To receive a credit, the new employer must (1) pay the workers at least 75% of their previous annual wages or salary for the first 12 months of employment, (2) not have been a related party to the old employer at the time of termination, and (3) not claim both the act's credit and the existing credit for hiring a displaced electrical worker for the same worker.

The credit applies against the insurance premium, corporation, and utility company taxes. It is allowed for the income year during which the displaced worker completes his first 12 months of employment with the taxpayer. The credit cannot exceed the total tax due and the act allows only one credit per qualifying worker. (**PA 06-186, § 81**, effective July 1, 2006 and applicable to income years starting on or after January 1, 2006.)

Historic Structures Tax Credit

This act authorizes \$15 million a year in business tax credits for funds spent rehabilitating historic commercial and industrial properties for residential use. Property owners may apply for and claim the credits, which may equal up to 25% of the qualified rehabilitation costs, up to \$2.7 million. Owners can claim the credits or assign them to other parties. **(PA 06-186, § 82**, effective July 1, 2006 and applicable to income years starting on or after January 1, 2006.)

Donating Computers to Private Schools

This act extends an existing business tax credit for businesses that donate new or used computers to public schools to cover computer donations to private schools. By law, the maximum credit is 50% of the computer's fair market value when donated. Used computers may be no more than two years old. The credit applies against the corporation tax and the insurance premium, air carrier, railroad company, cable and satellite TV, and utility company taxes. **(PA 06-145**, effective July 1, 2006 and applicable to income years starting on or after January 1, 2006.)

MISCELLANEOUS

Contested Case Hearing Timeframes

Prior law requires the insurance commissioner to (1) hold a hearing within 20 days of receiving a request from a person or insurer aggrieved by her order or decision and (2) render a decision within 15 days of the hearing. This act increases the timeframes to 30 days in which to hold a hearing and 45 days to issue a decision. **(PA 06-54**, effective October 1, 2006)

Investments in Affiliates

By law, an insurer may invest in one or more of its subsidiaries, subject to certain limitations and requirements. This act allows an insurer to invest in its affiliates, subject to the same limitations and requirements that apply to investments in subsidiaries. **(PA 06-54**, effective October 1, 2006)

Actuarial Reports and Work Papers

This act requires the insurance commissioner to keep an actuary's or reserve specialist's work papers, actuarial reports, and actuarial opinion summaries confidential. Such documents are not subject to subpoena or disclosable under the Freedom of Information Act. **(PA 06-117**, effective October 1, 2006)

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