

Act Number: 09-123

Bill Number: 5019

Senate Pages: 4537-4545, 4794-4796 **12**

House Pages: 1609-1614 **6**

Committee: Insurance: 552-553 **2**

Page Total: **20**

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GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
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THE CHAIR:

Without objection, so ordered.

Mr. Clerk.

THE CLERK:

Continuing on page 5, Calendar 456, Substitute for House Bill Number 5019, AN ACT PROHIBITING THE USE OF CERTAIN PRESCRIPTION DRUG HISTORY AS AN UNDERWRITING TOOL TO DENY INDIVIDUAL HEALTH INSURANCE COVERAGE, and the Clerk has amendments.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President. Mr. President, I move for acceptance of the Joint Committee's favorable report and passage of the bill in concurrence with the House.

THE CHAIR:

Acting on acceptance and approval of the bill, sir, would you like to remark further?

SENATOR CRISCO:

Yes, Mr. President and members of the circle. First in regard to the House Amendment, House Amendment A removes the term "particular," thus specifying that the bill applies to any prescription

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drug for anxiety, changes from a short-term basis to six months or less for the length of prescription drug use that the bill covers and, three, makes technical changes to the bill.

Mr. President, this bill prohibits insurers or other entities in the individual health insurance market from using as an underwriting factor a person's history of taking a prescription drug for anxiety for six months or less. It allows them to use such history if it arises directly for a medical diagnosis of an underlying condition. By law an insurer or entity cannot move an insured person from a standard underwriting classification to a substandard one after the policy is issued or increase premiums because of the person's claim experience or health status.

The law does allow for a premium increase that applies to all people in an underwriting classification as a whole. This bill applies to each insurer, HMO, hospital or a medical service corporation or a fraternal benefits society that delivers, issues, renews or continues an individual health insurance policy in the state of Connecticut.

THE CHAIR:

Thank you, sir.

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Will you remark further?

Senator Kissel. Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. Mr. President, if I may, I have some questions, through you, to Senator Crisco.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Yes, Mr. President. It is all right.

THE CHAIR:

Please proceed, sir.

SENATOR CALIGIURI:

Thank you, Mr. President. As I look at the language in the bill as amended by House A, we would prohibit an individual's history of taking a prescription drug for anxiety, and I'm going to paraphrase. Unless such history arises directly from a medical diagnosis of an underlying condition, my question through you to Senator Crisco, Mr. President, is what does the term "medical diagnosis of an underlying condition" mean, and can Senator Crisco think of an circumstance where we wouldn't have an individual taking a prescription drug for anxiety for

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six months or less where there had not been a medical diagnosis of an underlying condition?

Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Caligiuri, I can only think if there was a premeditated effort on behalf of the policyholder to not inform the insurance company, particularly on their application, that they had a preexisting condition, maybe such as diabetes or a heart condition, where they would take such medication.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President, and I thank Senator Crisco for that response. For the sake of having a clear record, as I read this, Mr. President, and this is another question to Senator Crisco, the language we're focused on assumes that it is possible for someone to be prescribed drugs for anxiety to be used for a relatively short period of time apart from the diagnosis of an underlying medical condition, and what

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the language seeks to do is to reach that narrow circumstance, because we believe that there are circumstances or times when that circumstance actually exists.

For the sake of the record, Mr. President, and through you to Senator Crisco, is that the proponent's intention?

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator Caligiuri, that is correct. I mean there are things that happen in our life, particular articles in the newspaper for example, that may create great anxiety for --

THE CHAIR:

You can only pat through the chair, Senator Caligiuri.

SENATOR CALIGIURI:

May I laugh through you, Mr. President?

SENATOR CRISCO:

Seriously, Mr. President, I don't mean to be flip, but there are situations in one's life such as maybe an automobile accident that someone has some short-term anxiety where they do need medication, and

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it shouldn't used against them in an underwriting basis.

THE CHAIR:

Thank you, sir.

Senator Caligiuri.

SENATOR CALIGIURI:

I thank Senator Crisco for that response which was extremely illuminating and appreciated. Mr. President, I rise in support of this bill. This bill is before us because of a circumstance that an individual faced that was brought to our attention. This was an individual who didn't have an underlying medical condition, had no issues for which this kind of medication was prescribed at any time in the future, had a moment of -- had a period of great stress in that person's life and, in response to that, was prescribed an antianxiety medication to help them to address that for a short period of time, only to find out that that became the reason for denying health insurance coverage.

And the balance, as we often seek to achieve it in the Insurance Committee, that we sought to achieve, was to recognize that there were times when the use of medication is relevant to underwriting, and there are

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times when, in our judgment, the use of medication is not relevant to underwriting and that is in circumstances where the use is really for an anomaly or an exception and not because of an underlying medical condition that we believe would be relevant for purposes of insurance underwriting.

That's the balance that we've sought to achieve in this bill, and that is why I'm going to be supporting it, and I thank Senator Crisco for his work on this. This is one of those works in process that took a while to get right, but I believe we've come as close to getting it right as we can. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President, and I rise in support of the measure before us and thank both Senators Crisco and Caligiuri for their work on this. If I could,
Mr. President, just a question for my information. If Senator Crisco could help me to better understand in

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complete support of the prohibition against using the short-term use of prescription drugs for anxiety of less than six months, what would happen if someone were on such prescription medication for a longer period of six months? Through you, Mr. President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Yes, Mr. President, through you to Senator McKinney, I believe that if it's more than six months, the insurance company might be able to use that in their underwriting.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, sir. So when we talk about allowing them to use the history if it arises directly from a medical diagnosis, would it be that the medical diagnosis would be a diagnosis of someone suffering from anxiety or perhaps anxiety and depression which would necessitate long-term use of anxiety medication. Would that be the type of information that could be used for underwriting? Through you, Mr. President.

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Senator Crisco.

SENATOR CRISCO:

Mr. President, through you to Senator McKinney,
yes.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

Thank you, Senator Crisco. I think that this is
a good step. There might even be more that we can do
but this is an important step, an important protection
for people who, for short terms, need to rely on such
medication. Thank you, sir.

THE CHAIR:

Thank you, sir.

Will you remark further on the bill? Will you
remark further?

Senator Crisco.

SENATOR CRISCO:

Mr. President, if there's no objection, I request
that it be placed on the Consent Calendar.

THE CHAIR:

There is a motion to place the bill on the
Consent Calendar. Without objection, so ordered.

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times that the elective procedure a woman can have this type of ultrasound during her pregnancy, provides for training and certification requirements for those who administer the ultrasound, and provides for certification and inspection requirements concerning the medical devices used.

So I believe in working with the industry that these types of standards, if we set forth, can be a laudable goal in making this law even a bit better -- a bit better I should say rather than the reverse. So I ask that the Chamber support this amendment and it be taken by roll call vote.

Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

A roll call vote will be ordered.

Senator Harris.

SENATOR HARRIS:

Thank you, Mr. President. Mr. President, I stand in opposition of this amendment. I want to thank Senator Kane for his work on this. I think what he's trying to do makes sense. You know, I think he's trying to figure out a way because there are businesses out there, and this bill is not -- the

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underlying bill is not saying that the people that have these businesses are evil or they're doing something that's abhorrent in a way. They're using a technology in a way that they believe is appropriate. And I think what Senator Kane is trying to do is come up with a way kind of to split the baby, so to speak, like Solomon, but there's really actually no way to do it here. So that's why I oppose this.

What Senator DeBicella and I learned -- and I want to thank him for his support and leadership on bringing this forward -- we, again, just the like Senator said, this kind of came out of nowhere when we learned about it. It's pretty clear, when you look at the FDA and other bodies that we use to judge the health and safety and welfare of our people, that there probably is no safe way to do this.

And so I think that the bright line test of just not allowing it makes much more sense, and that's why I'm going to be opposing this amendment, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further on Senate A? Will you remark further?

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If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate. Will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule A.

Total Number Voting	36
Necessary for Adoption	19
Those voting Yea	9
Those voting Nay	27
Those absent and not voting	0

THE CHAIR:

Amendment A fails.

Will you remark further on House Bill 5635?

Will you remark further on House Bill 5635?

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THE CLERK:

On page 3, Calendar 122, substitute for House Bill Number 5019, AN ACT PROHIBITING THE USE OF CERTAIN PRESCRIPTION DRUG HISTORY AS AN UNDERWRITING TOOL TO DENY INDIVIDUAL HEALTH INSURANCE COVERAGE, favorable report of the Committee on Insurance and Real Estate.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, I move for acceptance of the joint committee's favorable report and message of the bill. .

SPEAKER DONOVAN:

The question is on acceptance of the joint committee's favorable report on passage of the bill. You have the floor.

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, this bill prohibits individual health insurance providers from using an individual's history of taking a prescription drug for anxiety on a short-term basis as a factor in its underwriting, unless such usage derives from a medical diagnosis of an underlying condition.

Essentially, Mr. Speaker, this bill addresses a problem that occurs when certain insurance underwriters use a short-term prescribed use of acute anxiety drugs, such as for a specific traumatic event, as a reason to deny insurance coverage and force those individuals who were covered to pay higher rates through an insurance pool. Mr. Speaker, the Clerk has an amendment, LCO 5296. I ask that he call it and I receive permission to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 5296 -- will be designated House Amendment Schedule A.

THE CLERK:

LCO Number 5296, House A, offered by
Representatives McCluskey and Olson.

SPEAKER DONOVAN:

The Representative seeks leave of the chamber to summarize the amendment. Is there objection to summarization? Is there -- hearing no objection, you may proceed, Representative.

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, this amendment is minor in nature. And what it does is it revises and clarifies language at the end of the bill

to specify exactly when the provisions of the bill might take effect. In particular, it deletes the word "particular" in line 16 and clarifies that rather than on a short-term basis, the period must be for six months or less. Finally it clarifies that the history must arise directly from a medical diagnosis of an underlying condition rather than derive. So the amendment is intended to focus, clarify and refine the underlying bill. It is minor in nature and I urge adoption.

SPEAKER DONOVAN:

The question before the chamber is at option of House Amendment Schedule A. Will you remark? Will you remark further? Will you remark further on the amendment before us? Remark further? If not, let me try your minds. All those in favor of the amendment, please signify by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed, nay.

The ayes have it. The amendment is adopted.

Remark further on the bill as amended? Remark further on the bill as amended? Representative

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Nardello.

REP. NARDELLO (89th):

Thank you, Mr. Speaker. Good afternoon, by the way. I just wanted to thank the Chairman of the Insurance Committee for bringing this bill out on the floor. This actually came from a constituent problem and it was very interesting that this gentleman who owned his own business was put into this category after having a very traumatic life event. And it resulted in a \$15,000 insurance premium for one individual. So you can see what it actually means to have this bill come before us and we're trying to avoid this. And I think the Chair for addressing this, and I ask the chamber to support the bill.

SPEAKER DONOVAN:

Thank you, Representative. Remark further on the bill as amended? Representative D'Amelio.

REP. D'AMELIO (71st):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the bill. As stated by Representative Nardello, you know, in today's age there are so many different drugs that are out there and people face different challenges throughout their life. So this will help when you're going through, you know, a

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short-term problem, this will help with the underwriting and the affordability of prescription drugs and I urge the chamber's support. Thank you.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark further on the bill as amended? Will you remark further on the bill as amended? If not, staff and guests, please come to the well of the House. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber, please.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted. Members please check the machine, make sure your vote has been properly cast. If all members have voted, the machine will be locked and the Clerk please take a tally. Will the Clerk please announce the tally.

THE CLERK:

House Bill 5019, as amended by House A.

Total Number Voting 145

Necessary for Passage 73

Those voting Yea	145
Those voting Nay	0
Those absent and not voting	6

SPEAKER DONOVAN:

The bill as amended is passed.

Will the Clerk please call Calendar Number 201.

THE CLERK:

On page 8, Calendar 201, House bill Number 5018,
AN ACT CONCERNING REVIEWS OF HEALTH INSURANCE BENEFITS
MANDATED IN THIS STATE, favorable report of the
Committee on Insurance and Real Estate.

SPEAKER DONOVAN:

Representative Fontana.

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, I move for
acceptance of the joint committee's favorable report
and passage of the bill.

SPEAKER DONOVAN:

The question is on acceptance of the joint
committee's favorable report and passage of the bill.

Will you remark, sir?

REP. FONTANA (87th):

Thank you, Mr. Speaker. Mr. Speaker, this bill
establishes a health benefit review program within the

**JOINT
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HEARINGS**

**INSURANCE AND
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Insurance and Real Estate Committee
February 3, 2008

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Testimony of the American Cancer Society

The American Cancer Society is urging your support of HB 5019, AN ACT PROHIBITING THE USE OF PRESCRIPTION DRUG HISTORY AS AN UNDERWRITING TOOL TO DENY HEALTH INSURANCE COVERAGE.

The American Cancer Society believes that all people should have unimpeded access to comprehensive, quality health care services. This care includes cancer prevention, early detection, diagnosis and treatment, rehabilitation and long-term care through the end of life. The Society recognizes that serious gaps exist in accessibility, affordability, adequacy, administrative simplicity and quality of health care for many people, which must be addressed by the nation as a whole.

Prior prescription drug history should not be used as an underwriting tool in denying health insurance. There is a serious health care concern within the state and the nation, we will not be able to address these health concerns until we stop using selective practices which unfairly offer different coverage from one person to another. Without this legislation some individuals will not be able to obtain proper health coverage, they will be unable to obtain routine screenings, and therefore will be at risk for deadly diseases, including cancer.

The uninsured have less of a chance of receiving lifesaving cancer detection screenings, such as mammograms, Pap tests, colonoscopies and PSA tests. The uninsured have a much greater chance of being diagnosed with a late-stage cancer that is much more difficult to treat and cure than an early-stage cancer.

We must apply equally what we know about cancer prevention, early detection and treatment to ensure that all people—especially those in communities that suffer a disproportionate burden of cancer—benefit from major cancer breakthroughs. One step to that end is to increase the number of individuals with meaningful health insurance coverage and affordable access to the full range of high quality cancer-related services, prevention through end of life. This legislation will accomplish just that.

Please support this piece of legislation so that all individuals can enjoy the quality of life that they rightly deserve.

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Quality is Our Bottom Line

Insurance Committee Public Hearing
February 3, 2009

Connecticut Association of Health Plans
Testimony in Opposition to

HB 5019 AA Prohibiting the Use of Prescription Drug History as an Underwriting Tool to Deny Health Insurance Coverage.

The Connecticut Association of Health Plans respectfully urges the Committee's rejection of HB 5019 AA Prohibiting the Use of Prescription Drug History as an Underwriting Tool to Deny Health Insurance Coverage.

Health plans need to the ability to accurately rate for various risk factors inherent to the practice of insurance and prescription drug history is a strong indicator of risk and therefore an important indicator. While we appreciate the intent of the legislation, we believe it sets the wrong course for Connecticut. Having said that we share the concerns that the bill attempts to address which is in large part why the health insurance industry has endorsed the concept of an individual mandate. Adoption of an individual mandate combined with a requirement for guaranteed issue of health insurance – meaning that no one is turned away for coverage – would address the main goals that this bill seeks to accomplish. Only by requiring that all “lives” are in the market pool can you begin the process of assuring coverage for all as the risk factors associated with the healthy and the sick begin to balance out. We look forward to continuing a dialogue with the Committee on this and other reform proposals throughout the session. .

Many thanks for your consideration.