

## Insurance and Real Estate Committee JOINT FAVORABLE REPORT

**Bill No.:** SB-1045

AN ACT CONCERNING STEP THERAPY, ADVERSE DETERMINATION AND UTILIZATION REVIEWS, AND HEALTH INSURANCE COVERAGE FOR

**Title:** CHILDREN, STEPCHILDREN AND OTHER DEPENDENT CHILDREN.

**Vote Date:** 3/22/2021

**Vote Action:** Joint Favorable

**PH Date:** 3/18/2021

**File No.:**

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### **SPONSORS OF BILL:**

Insurance and Real Estate Committee

### **REASONS FOR BILL:**

The bill aims to increase patient and medical provider control over treatment options that they deem appropriate and in the best interest of the patient. Before SB 1045, health insurers could deny coverage if they believed it was not medically necessary, leaving the patient with the burden to prove otherwise. The bill addresses this issue by flipping the burden of proof to the insurers, who would now have to prove that the treatment was not medically necessary. SB 1045 further expands a patient's ability to get appropriate medical treatment by prohibiting certain health carriers from requiring the use of step therapy for drugs prescribed to treat behavioral health conditions or chronic, disabling or life-threatening conditions or diseases.

The bill also seeks to improve the accuracy of third-party decisions to whether a treatment is medically necessary by increasing the certification requirement of clinical peers and allowing them the authority reverse adverse determinations. Lastly, SB 1045 extends how long a child, stepchild, or dependent child can remain under their parent's insurance to the one-year anniversary date after turning twenty-six.

### **RESPONSE FROM ADMINISTRATION/AGENCY:**

**Ted Doolittle, Healthcare Advocate, Office of Healthcare Advocate:** Supports SB 1045 but has concerns that insurance companies will be deprived of certain tools designed to restrain excessive spending on overpriced brand names. They fear this could exacerbate the cost of healthcare outpacing the ability to pay. The OHA recommends the CGA implement a

more targeted approach that eliminates step therapy only for those conditions where the negative impacts clearly outweigh the economic benefits.

#### **NATURE AND SOURCES OF SUPPORT:**

**Connecticut Hospital Association:** Sections 6 and 7 of SB 1045 will help temper the overuse of utilization management processes by putting healthcare decisions back in the hands of patients and providers rather than health insurance companies.

**Connecticut Psychiatric Society:** Support SB 1045 limiting the utilization of step-therapy because they believe it is not fair and harmful to patients. They also support making the people who determine if the care was medically necessary as qualified as the doctors who are rendering the care. Lastly, they support the amendment that flips the burden to the insurer to demonstrate how the care is not medically necessary. They believe SB 1045 will allow physicians to provide better care to their patients.

**Connecticut State Medical Society:** Health insurer's administrative hurdles commonly delay access to care for patients and serve as impositions into the patient-physician relationship and decision-making process. CSMS is strongly supportive of these amendments that would severely limit the circumstances in which health insurers can utilize step therapy. Supports the revises to the definition of a "clinical peer", however, they recommend further changes to require a clinical peer to hold a license in Connecticut and to have a doctorate or medical degree. Overall, SB 1045 provides changes to the Connecticut General Statutes that will help physicians provide better care to their patients.

**Hartford Health Care:** Supports SB 1045 because it, among other things, would limit the use of step therapy; flip the burden of proving medical necessity from the provider to the insurance plan, so that services would be presumed medically necessary unless a carrier proves otherwise; and makes changes to the definition and role of a clinical peer in adverse determinations and utilization review.

**Kathleen Flaherty, Executive Director, Connecticut Legal Rights Project:** Step therapy and prior authorizations make it difficult for people who are trying to manage chronic illnesses

and behavioral health conditions effectively to do so quickly. These policies hurt people, and SB 1045 is an important bill that will address these issues and increase access to health care.

**Martin M. Looney, Senator, Connecticut General Assembly:** SB 1045 would provide a number of innovative protections for patients. He supports switching the burden of proof to the insurers because they possess the relevant information and would not be as able to interfere with medical decisions they are not qualified to make. He believes the bill will also strengthen patient protections against the insurers use of step therapy, which has prevented patients from receiving appropriate treatment from their healthcare provider. He supports the refined definition of “clinical peer” in the appeal process for adverse determinations because it will lead to more accurate and appropriate determinations that will benefit all parties. Sen. Looney also believes SB 1045 allowing children to remain on their parent’s health insurance through the end of the year after turning twenty-six levels the playing field to what is already done by a lot of insurers.

**Michelle Carpino Cook, Representative, Connecticut General Assembly:** Individuals with serious behavioral health needs have complex medical histories and should not be met with counterintuitive hurdles when trying to access the appropriate medication. She supports SB 1045 because it prevents insurance companies from requiring a prior authorization or step-up mandate that can cause detrimental health consequences.

**Ted Doolittle, Healthcare Advocate, Office of Healthcare Advocate:** Supports SB 1045 but has concerns that insurance companies will be deprived of certain tools designed to restrain excessive spending on overpriced brand names. They fear this could exacerbate the cost of healthcare outpacing the ability to pay. The OHA recommends the CGA implement a more targeted approach that eliminates step therapy only for those conditions where the negative impacts clearly outweigh the economic benefits.

**The Connecticut Society of Eye Physicians:** Supports SB 1045 because it will improve access to prescription medications that are in the best interest of the patient. It will allow physicians to make medical decisions that improve the quality of life for these individuals and help achieve optimal outcomes.

**Thomas Burr, Community and Affiliates Relations Manager, National Alliance on**

**Mental Illness Connecticut:** Providers must be able to select from a full range of drug options to maximize treatment efficacy, minimize side effects, and avoid drug-to-drug interactions. Studies show a connection to more emergency visits and higher rates of suicidal behavior and homelessness for patients who report difficulties accessing their needed medication. He believes step therapy is harmful to patients for the mentioned reasons and does not result in any net savings to either the State of Connecticut or any health insurance provider.

**NATURE AND SOURCES OF OPPOSITION:**

**Connecticut Association of Health Plans:** The prohibition of step therapy in section 2 negates a critical tool that carriers use to support evidenced based treatment and to control costs. Section 3 changes the definition of a clinical peer that makes prior authorization, which is used as a way to make sure care is appropriate and costs are in check, almost impossible to utilize. Section 4 flips the burden of proof upside down and will jeopardize what was previously a fair process surrounding medical necessity decisions. Medical necessity determinations are a critical check and balance on the current system to make sure that care provided is appropriate. The new process established under SB 1045 is enormously cumbersome and virtually unworkable and if enacted, would represent the single most expensive mandate ever passed.

**Sam Hallemeier, Director of State Affairs, Pharmaceutical Care Management**

**Association:** Concerned that SB 1045 will restrict their ability to provide a high-quality benefit and put downward pressure on the rising cost of prescription drugs. Step therapy is a tool designed to ensure that patients receive clinically appropriate and cost-effective drug therapies. If the bill goes into effect the projected drug cost for fully insured employers and commercial health plans would increase by \$544 million in the state over the next ten years. It would also negatively impact employers and health plans that now cover some 700,000 beneficiaries in Connecticut. SB 1045 will increase the cost of providing reliable and affordable access to prescription drugs.

**Reported by: Kyle Del Balso**

**Date: April 5,2021**