General Assembly

Raised Bill No. 7192

January Session, 2025

LCO No. **5921**

Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT IMPLEMENTING RECOMMENDATIONS OF THE BIPARTISAN DRUG TASK FORCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2025*) (a) Any pharmacy benefits manager shall owe a fiduciary duty to any health carrier, as defined in section 38a-591a of the general statutes, or other health benefit plan sponsor.

(b) Any pharmacy benefits manager shall notify the health carrier or other health benefit plan sponsor, in writing, of any activity, policy or practice of such pharmacy benefits manager that directly or indirectly presents any conflict of interest with the duties imposed by this section.

(c) Any pharmacy benefits manager shall have an obligation of good faith and fair dealing in performing such pharmacy benefits manager's duties with all parties, including, but not limited to, a health carrier or other health benefit plan sponsor with whom such pharmacy benefits manager interacts in the performance of pharmacy benefit management services.

(d) Notwithstanding any provision of title 38a of the general statutes and to the maximum extent permitted by applicable law, no contract entered into or amended by a health carrier shall contain any provision that permits or requires any party to such contract to violate the fiduciary duty that such health carrier owes to such health carrier's covered persons.

(e) Any violation of the provisions of this section shall constitute a violation of the Connecticut Unfair Insurance Practices Act established pursuant to section 38a-815 of the general statutes.

(f) The Insurance Commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 2. Section 38a-477cc of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2026*):

(a) No contract for pharmacy services entered into in the state between a health carrier, as defined in section 38a-591a, or pharmacy benefits manager, as defined in section 38a-479aaa, and a pharmacy or pharmacist shall:

(1) On and after January 1, 2018, contain a provision prohibiting or penalizing, including through increased utilization review, reduced payments or other financial disincentives, a pharmacist's disclosure to an individual purchasing prescription medication of information regarding:

(A) The cost of the prescription medication to the individual; or

(B) The availability of any therapeutically equivalent alternative medications or alternative methods of purchasing the prescription medication, including, but not limited to, paying a cash price, that are less expensive than the cost of the prescription medication to the individual; **[**and**]**

(2) On and after January 1, 2020, contain a provision permitting the health carrier or pharmacy benefits manager to recoup, directly or indirectly, from a pharmacy or pharmacist any portion of a claim that such health carrier or pharmacy benefits manager has paid to the pharmacy or pharmacist, unless such recoupment is permitted under section 38a-479iii or required by applicable law;

(3) On and after January 1, 2026, contain a provision permitting the pharmacy benefits manager to charge a health benefit plan in this state a contracted price for any pharmacy services that differs from the amount such pharmacy benefits manager, directly or indirectly, pays the pharmacy for such pharmacy services; and

(4) On and after January 1, 2026, contain a provision permitting the pharmacy benefits manager to charge a health benefit plan, directly or indirectly, a fee that is conditioned on the (A) wholesale acquisition cost or any other price metric for a prescription drug, (B) amount of savings, rebates or other fees charged, realized, collected by or generated based on the business practices of such pharmacy benefits manager, or (C) amount of premiums charged or cost-sharing requirements pursuant to such health benefit plan that are realized or collected by such pharmacy benefits manager from covered persons. For the purposes of this subdivision, "wholesale acquisition cost" means the price of a medication set by a pharmaceutical manufacturer in the United States when selling to a wholesaler.

(b) (1) On and after January 1, 2018, no health carrier or pharmacy benefits manager shall require an individual to make a payment at the point of sale for a covered prescription medication in an amount greater than the lesser of:

(A) The applicable copayment for such prescription medication;

(B) The allowable claim amount for the prescription medication; or

(C) The amount an individual would pay for the prescription

medication if the individual purchased the prescription medication without using a health benefit plan, as defined in section 38a-591a, or any other source of prescription medication benefits or discounts.

(2) For the purposes of this subsection, "allowable claim amount" means the amount the health carrier or pharmacy benefits manager has agreed to pay the pharmacy for the prescription medication.

(c) Any provision of a contract that violates the provisions of this section shall be void and unenforceable. Any general business practice that violates the provisions of this section shall constitute an unfair trade practice pursuant to chapter 735a. The invalidity or unenforceability of any contract provision under this subsection shall not affect any other provision of the contract.

(d) The Insurance Commissioner may:

(1) Enforce the provisions of this section pursuant to chapter 697; and

(2) Upon request, audit a contract for pharmacy services for compliance with the provisions of this section.

Sec. 3. Section 38a-479ttt of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2025*):

Not later than March 1, 2021, and annually thereafter, the commissioner shall prepare a report, for the immediately preceding calendar year, describing the rebate practices of health carriers. The report shall contain (1) an explanation of the manner in which health carriers accounted for rebates in calculating premiums for health care plans delivered, issued for delivery, renewed, amended or continued during such year, (2) a statement disclosing whether, and describing the manner in which, health carriers made rebates available to insureds at the point of purchase during such year, (3) any other manner in which health carriers applied rebates during such year, <u>(4) the percentage of rebate dollars used by health carriers to reduce cost-sharing</u>

requirements during such year, (5) an evaluation of rebate practices to reduce cost-sharing for health care plans delivered, issued for delivery, renewed, amended or continued during such year, and **[**(4)**]** (6) such other information as the commissioner, in the commissioner's discretion, deems relevant for the purposes of this section. The commissioner shall publish a copy of the report on the department's Internet web site.

Sec. 4. (NEW) (*Effective July 1, 2025*) (a) The Insurance Commissioner shall require any health carrier, as defined in section 38a-591a of the general statutes, to report to the commissioner annually on pricing offered to and profit generated between such carrier and any pharmacy benefits manager or mail-order pharmacy doing business with such carrier.

(b) The commissioner shall post a link on the Internet web site of the Insurance Department to such reports filed pursuant to subsection (a) of this section.

Sec. 5. (*Effective July 1, 2025*) For the purposes of this section and sections 6 to 14, inclusive, of this act, unless the context otherwise requires:

(1) "Canadian supplier" means a manufacturer or wholesale drug distributor that is licensed or permitted under applicable Canadian law to manufacture or distribute prescription drugs;

(2) "Canadian prescription drug importation program" or "program" means a program under which the state would seek federal approval to import prescription drugs from Canada that have the highest potential for cost savings in the state;

(3) "Department" means the Department of Consumer Protection;

(4) "Drug" means an article that is (A) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the

United States or official National Formulary, or any supplement thereto, (B) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans, (C) not food and intended to affect the structure or any function of the human body, and (D) not a device and intended for use as a component of any article specified in subparagraphs (A) to (C), inclusive, of this subdivision;

(5) "Drug Quality and Security Act" means the federal Drug Quality and Security Act, 21 USC 351, et seq., as amended from time to time;

(6) "Food, Drug and Cosmetic Act" means the federal Food, Drug and Cosmetic Act, 21 USC 301, et seq., as amended by the Drug Quality and Security Act, as both may be amended from time to time;

(7) "Qualifying laboratory" has the same meaning as provided in 21 CFR 251.2;

(8) "Laboratory testing" means a quantitative and qualitative analysis of a drug consistent with the applicable provisions of the official United States Pharmacopoeia;

(9) "Participating Canadian supplier" means a Canadian supplier that is exporting prescription drugs, in the manufacturer's original container, to a participating wholesaler for distribution in this state under the program;

(10) "Participating wholesaler" means a wholesaler that is (A) designated by the Department of Consumer Protection to distribute prescription drugs in the manufacturer's original container, obtained from a participating Canadian supplier, and (B) participating in the program;

(11) "Recall" means a person's removal or correction of a marketed product that the department determines is in violation of this section, but "recall" does not include a market withdrawal or a stock recovery, as such terms are defined in 21 CFR 7.3;

(12) "Relabeler" has the same meaning as provided in 21 CFR 207.1;

(13) "Repacker" has the same meaning as provided in 21 CFR 207.1;

(14) "Track-and-trace" means the product tracing process for the components of the pharmaceutical distribution supply chain as described in Title II of the Drug Quality and Security Act; and

(15) "Wholesaler" means a wholesaler, as defined in section 21a-70 of the general statutes, that has received a certificate of registration from the Commissioner of Consumer Protection pursuant to said section.

Sec. 6. (*Effective July 1, 2025*) The Commissioner of Consumer Protection shall hire, within available resources, a consultant to study the feasibility of establishing a Canadian prescription drug importation program to reduce prescription drug costs in the state. Not later than October 1, 2027, the commissioner shall file a report, in accordance with the provisions of section 11-4a of the general statutes, with the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, general law and human services and the Office of Policy and Management on the results of the feasibility study.

Sec. 7. (*Effective October 1, 2027*) (a) If after completion of the study described in section 6 of this act, the Commissioner of Consumer Protection, in consultation with the Secretary of the Office of Policy and Management, determines a Canadian prescription drug importation program is feasible, the Commissioner of Consumer Protection may submit a request to the federal Food and Drug Administration seeking approval for the program under Section 804 of the federal Food, Drug and Cosmetic Act, 21 USC 384(b) to 21 USC 384(h), inclusive, as amended from time to time. If submitted, such request shall, at a minimum:

(1) Describe the state's plans for operating the program and describe any opportunities to coordinate or operate the program in coordination

with other states;

(2) Demonstrate that any prescription drug that is imported and distributed in this state under the program would:

(A) Meet all applicable federal and state standards for safety and effectiveness; and

(B) Comply with all federal tracing procedures; and

(3) State the estimated costs of implementing the program.

(b) If the federal Food and Drug Administration approves the request, the Commissioner of Consumer Protection shall:

(1) Submit to the Secretary of the Office of Policy and Management, and the Commissioners of Social Services and Health Strategy, a notice disclosing that the federal Food and Drug Administration approved such request; and

(2) Submit to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, general law, human services and public health a notice disclosing that the federal Food and Drug Administration approved such request.

(c) The Commissioner of Consumer Protection shall not operate the program unless the federal Food and Drug Administration approves the request. Notwithstanding the foregoing, the department may expend resources in advance of such approval to ensure efficient implementation.

Sec. 8. (*Effective October 1, 2027*) If the Canadian prescription drug importation program is established, each participating wholesaler may import and distribute a prescription drug in this state from a participating Canadian supplier under the program if:

(1) Such drug meets the federal Food and Drug Administration's standards concerning drug safety, effectiveness, misbranding and adulteration;

(2) Importing such drug would not violate federal patent laws; and

(3) Such drug is not:

(A) A controlled substance, as defined in 21 USC 802, as amended from time to time;

(B) A biological product, as defined in 42 USC 262, as amended from time to time;

(C) An infused drug;

(D) An intravenously injected drug;

(E) A drug that is inhaled during surgery; or

(F) A drug that is a parenteral drug, the importation of which is determined by the federal Secretary of Health and Human Services to pose a threat to the public health.

Sec. 9. (*Effective October 1, 2027*) If a Canadian prescription drug importation program is established, participating wholesalers may, subject to the provisions of sections 10 and 11 of this act, import and distribute drugs in this state from a participating Canadian supplier under the program to:

(1) A pharmacy or institutional pharmacy, as defined in section 20-571 of the general statutes; and

(2) A qualifying laboratory.

Sec. 10. (*Effective October 1, 2027*) If a Canadian prescription drug importation program is established, the Commissioner of Consumer Protection shall require that each participating Canadian supplier and

participating wholesaler (1) comply with all applicable track-and-trace requirements, and shall not distribute, dispense or sell outside of this state any prescription drug that is imported into this state under the program, and (2) make available to the commissioner all track-and-trace records not later than forty-eight hours after the commissioner requests such records.

Sec. 11. (*Effective October 1, 2027*) (a) A participating wholesaler in any approved Canadian prescription drug importation program shall ensure the safety and quality of all drugs that may be imported and distributed in this state under the program. The participating wholesaler shall, if such program is established:

(1) For each initial shipment of a drug that is imported into this state by a participating wholesaler, ensure that a qualifying laboratory engaged by the participating wholesaler tests a statistically valid sample size for each batch of each drug in such shipment for authenticity and degradation in a manner that is consistent with the Food, Drug and Cosmetic Act;

(2) For each shipment of a drug that is imported into this state by a participating wholesaler and has been sampled and tested pursuant to subdivision (1) of this subsection, ensure that a qualifying laboratory engaged by the participating wholesaler tests a statistically valid sample of such shipment for authenticity and degradation in a manner that is consistent with the Food, Drug and Cosmetic Act;

(3) Only import drugs into this state that are (A) approved for marketing in the United States, (B) not adulterated or misbranded, and (C) meet all of the labeling requirements under 21 USC 352, as amended from time to time;

(4) Maintain qualifying laboratory records, including, but not limited to, complete data derived from all tests necessary to ensure that each drug imported into this state under any approved Canadian prescription drug importation program is in compliance with the

requirements of this section; and

(5) Maintain documentation demonstrating that the testing required by this section was conducted at a qualifying laboratory in accordance with the Food, Drug and Cosmetic Act and all other applicable federal and state laws and regulations concerning qualifying laboratory qualifications.

(b) The participating wholesaler shall maintain all information and documentation pursuant to this section for a period of not less than three years from the date of submission of such information and documentation to the participating wholesaler by a qualifying laboratory.

(c) Each participating wholesaler shall maintain all of the following information for each drug that such participating wholesaler imports and distributes in this state under the program, and submit such information to the Commissioner of Consumer Protection upon request by the commissioner:

(1) The name and quantity of the active ingredient of such drug;

(2) A description of the dosage form of such drug;

(3) The date on which such participating wholesaler received such drug;

(4) The quantity of such drug that such participating wholesaler received;

(5) The point of origin and destination of such drug;

(6) The price paid by such participating wholesaler for such drug;

(7) A report regarding any drug that fails qualifying laboratory testing; and

(8) Such additional information and documentation that the

commissioner deems necessary to ensure the protection of the public health.

(d) The Commissioner of Consumer Protection shall require each participating Canadian supplier in any approved Canadian prescription drug importation program to maintain the following information and documentation and, upon request by the commissioner, submit such information and documentation to the commissioner for each drug that such participating Canadian supplier exports into this state under the program:

(1) The original source of such drug, including, but not limited to:

(A) The name of the manufacturer of such drug;

(B) The date on which such drug was manufactured; and

(C) The location where such drug was manufactured;

(2) The date on which such drug was shipped;

(3) The quantity of such drug that was shipped;

(4) The quantity of each lot of such drug originally received and the source of such lot;

(5) The lot or control number and the batch number assigned to such drug by the manufacturer; and

(6) Such additional information and documentation that the Commissioner of Consumer Protection deems necessary to ensure the protection of the public health.

Sec. 12. (*Effective October 1, 2027*) (a) If the Commissioner of Consumer Protection determines that public health, safety or welfare requires emergency action, the commissioner may order a participating Canadian supplier, participating wholesaler, relabeler, repacker and qualifying laboratory to cease and desist from actions specified in the

order that create the need for such emergency action pending administrative proceedings. Such cease and desist order shall be (1) in writing; (2) signed by the Commissioner of Consumer Protection; and (3) effective upon delivery to the respondent. An administrative proceeding in accordance with chapter 54 of the general statutes shall be promptly instituted following a cease and desist order. The commissioner may impose a civil penalty, in an amount not to exceed ten thousand dollars, after a hearing conducted pursuant to chapter 54 of the general statutes.

(b) The commissioner may require the recall, embargo or destruction, pursuant to section 21a-96 of the general statutes, of any drug that was imported and distributed under the program and has been identified as adulterated, within the meaning of section 21a-105 of the general statutes, or misbranded.

(c) In the event of a cease and desist, recall, embargo or destruction order, the person adversely impacted by such order shall provide written notice to all other businesses participating in the program, informing them of the order.

Sec. 13. (*Effective October 1, 2027*) If a Canadian prescription drug importation program is established, the Commissioner of Consumer Protection may adopt regulations in accordance with the provisions of chapter 54 of the general statutes to implement the provisions of sections 5 to 12, inclusive, of this act.

Sec. 14. (*Effective October 1, 2027*) Not later than one hundred eighty days after the first importation of any Canadian prescription drug under the importation program begins, and biannually thereafter, the Commissioner of Consumer Protection shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, general law, human services and public health. Such report

shall describe (1) the operation of the program, if established, and (2) any violation of sections 5 to 13, inclusive, of this act that resulted in any action taken by the commissioner pursuant to section 12 of this act and the status of the investigation into such violation.

Sec. 15. (NEW) (*Effective from passage*) (a) There is established a task force to study emergency preparedness and mitigation strategies for prescription drug shortages. The task force shall identify prescription drugs at risk of shortage in this state and make recommendations pursuant to subsection (g) of this section.

(b) The task force shall consist of the following members:

(1) Two appointed by the speaker of the House of Representatives, one of whom has expertise in prescription drug supply chains and one of whom has expertise in federal law concerning prescription drug shortages;

(2) Two appointed by the president pro tempore of the Senate, one of whom represents hospitals and one of whom represents health care providers who treat patients with rare diseases;

(3) One appointed by the majority leader of the House of Representatives, who represents one of the two federally recognized Indian tribes in the state;

(4) One appointed by the majority leader of the Senate, who represents one of the two federally recognized Indian tribes in the state;

(5) One appointed by the minority leader of the House of Representatives;

(6) One appointed by the minority leader of the Senate;

(7) The Commissioner of Health Strategy, or the commissioner's designee;

(8) The Commissioner of Consumer Protection, or the commissioner's designee;

(9) The Commissioner of Social Services, or the commissioner's designee;

(10) The Commissioner of Public Health, or the commissioner's designee;

(11) The chief executive officer of The University of Connecticut Health Center, or the chief executive officer's designee;

(12) The Insurance Commissioner, or the commissioner's designee; and

(13) The Commissioner of Economic and Community Development, or the commissioner's designee.

(c) Any member of the task force appointed under subdivision (1), (2), (3), (4), (5) or (6) of subsection (b) of this section may be a member of the General Assembly.

(d) All initial appointments to the task force shall be made not later than thirty days after the effective date of this section. Any vacancy shall be filled by the appointing authority.

(e) The speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons of the task force from among the members of the task force. Such chairpersons shall schedule the first meeting of the task force, which shall be held not later than sixty days after the effective date of this section.

(f) The administrative staff of the joint standing committee of the General Assembly having cognizance of matters relating to general law shall serve as administrative staff of the task force.

(g) Not later than January 1, 2026, and annually thereafter, the task

force shall submit a report on its findings and recommendations to the joint standing committees of the General Assembly having cognizance of matters relating to general law, human services, insurance and real estate and public health, in accordance with the provisions of section 11-4a of the general statutes, including, but not limited to, identification of prescription drugs the task force determines are at risk of shortage and strategies that would mitigate these shortages, including methods to increase in-state production of such drugs deemed both at risk of shortage and critically necessary for the provision of health care within the state.

Sec. 16. (NEW) *(Effective July 1, 2025*) (a) As used in this section, "Strategic Supply Chain Initiative" means a program administered by the Department of Economic and Community Development to help state-based companies to increase their production capacity to win new business and attract out-of-state and international supply chain operations.

(b) The Commissioner of Economic and Community Development shall expand the Strategic Supply Chain Initiative to include efforts to prevent or mitigate prescription drug shortages, including, but not limited to, incorporating recommendations to prevent or mitigate prescription drug shortages by the task force established pursuant to section 15 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2025*	New section
Sec. 2	*January 1, 2026*	38a-477cc
Sec. 3	*October 1, 2025*	38a-479ttt
Sec. 4	*July 1, 2025*	New section
Sec. 5	*July 1, 2025*	New section
Sec. 6	*July 1, 2025*	New section
Sec. 7	*October 1, 2027*	New section
Sec. 8	*October 1, 2027*	New section
Sec. 9	*October 1, 2027*	New section

Sec. 10	*October 1, 2027*	New section
Sec. 11	*October 1, 2027*	New section
Sec. 12	*October 1, 2027*	New section
Sec. 13	*October 1, 2027*	New section
Sec. 14	*October 1, 2027*	New section
Sec. 15	*from passage*	New section
Sec. 16	*July 1, 2025*	New section

Statement of Purpose:

To implement recommendations of the bipartisan drug task force.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]