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## OLR Bill Analysis

### sHB 7192

#### ***AN ACT IMPLEMENTING RECOMMENDATIONS OF THE BIPARTISAN DRUG TASK FORCE.***

#### **SUMMARY**

This bill makes various changes related to prescription drugs, pharmacy benefits managers (PBMs), health carriers, and other related matters.

Specifically, the bill does the following:

1. specifies that PBMs owe a fiduciary duty to health carriers or other health plan sponsors and generally prohibits carrier contracts from allowing or requiring a party to violate the carrier's fiduciary duty to insureds (§ 1);
2. prohibits certain provisions in pharmacy services contracts, such as those allowing a PBM to charge a health plan a contracted price that differs from what the PBM pays the pharmacy for the services (§ 2);
3. expands the contents of the insurance commissioner's annual report on health carrier rebates to include certain information on how rebates affected cost sharing (§ 3);
4. requires the insurance commissioner to require carriers to annually report on pricing offered to, and profit generated between, the carrier and any PBM or mail-order pharmacy (§ 4);
5. creates a 15-member task force to study prescription drug shortage preparedness and mitigation (§ 5); and
6. requires the Department of Economic and Community Development (DECD) to incorporate prescription drug shortage prevention or mitigation into its Strategic Supply Chain Initiative

(§ 6).

EFFECTIVE DATE: Various; see below.

## **§ 1 — PHARMACY BENEFITS MANAGER FIDUCIARY DUTY AND HEALTH CARRIER CONTRACTS**

The bill specifies that PBMs owe a fiduciary duty to health carriers (e.g., insurers) or other health benefit plan sponsors (in other words, have the legal duty to act in the carriers' or sponsors' interests). It also specifies that PBMs have an obligation of good faith and fair dealing in performing their duties with all parties, including carriers or other plan sponsors they interact with in performing their pharmacy benefit management services.

Under the bill, a PBM must notify the carrier or other plan sponsor, in writing, if any of the PBM's activities, policies, or practices directly or indirectly present a conflict of interest with its duties under the bill.

The bill also prohibits any health carrier contracts entered into or amended after October 1, 2025, from allowing or requiring a party to violate the fiduciary duty that the carrier owes to its covered persons (i.e. insureds). This applies despite any contrary provisions in the state's insurance laws and to the maximum extent allowed by law.

Under the bill, a violation of any of these provisions is an unfair insurance practice (see BACKGROUND).

The bill allows the insurance commissioner to adopt implementing regulations.

EFFECTIVE DATE: October 1, 2025

## **§ 2 — PHARMACY SERVICES CONTRACTS**

Starting January 1, 2026, the bill prohibits a pharmacy services contract between a pharmacist or pharmacy and health carrier or PBM from allowing the PBM to charge an in-state health benefit plan a contracted price for any pharmacy services that differs from what the PBM pays the pharmacy (directly or indirectly) for these services (sometimes called a "spread pricing" arrangement).

It further prohibits these contracts from allowing the PBM to charge a health benefit plan, directly or indirectly, a fee that depends on any of the following:

1. a prescription drug's wholesale acquisition cost or another price metric for these drugs;
2. the amount of savings, rebates, or other fees charged, collected, or generated based on the PBM's business practices; or
3. the amount of charged premiums or cost-sharing requirements under the plan that the PBM collects from covered persons.

As under existing law for prohibited provisions in these contracts:

1. any contract provision that violates the bill is void and unenforceable, but a provision rendered invalid or unenforceable does not affect remaining provisions;
2. any general business practice that violates the bill's provisions is an unfair trade practice under the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND); and
3. the insurance commissioner may enforce the bill's provisions and, upon request, audit pharmacy services contracts for compliance.

EFFECTIVE DATE: January 1, 2026

### **§ 3 — HEALTH CARRIER REBATE ANNUAL REPORTING**

Existing law requires the insurance commissioner to annually report on health carrier rebate practices for the prior year and publish the report on the department's website. The bill expands the required contents of this report to include the (1) percentage of rebate dollars health carriers used to reduce cost-sharing requirements and (2) an evaluation of rebate practices to reduce cost-sharing for health care plans delivered, issued, renewed, amended, or continued.

Under existing law, the report must include (1) an explanation of how

carriers accounted for rebates when calculating premiums, (2) a statement disclosing whether and how carriers made rebates available to insureds at the point of purchase, (3) any other way carriers applied rebates, and (4) any other information the commissioner deems relevant.

EFFECTIVE DATE: October 1, 2025

#### **§ 4 — HEALTH CARRIER PRICING AND PROFIT REPORTING REQUIREMENTS**

Under the bill, the insurance commissioner must require health carriers to annually report on pricing offered to, and profit generated between, the carrier and any PBM or mail-order pharmacy doing business in Connecticut. The commissioner must post a link to these reports on the department's website.

EFFECTIVE DATE: July 1, 2025

#### **§ 5 — PRESCRIPTION DRUG SHORTAGES TASK FORCE**

The bill creates an ongoing task force to study emergency preparedness and mitigation strategies for prescription drug shortages. The task force must identify drugs at risk of shortage in this state and recommend ways to address that (see below).

EFFECTIVE DATE: Upon passage

##### ***Task Force Members, Administration, and Reporting Requirement***

The task force includes eight members appointed by the legislative leaders, as shown in the following table. Appointees may be legislators.

**Table: Task Force Appointed Members**

<b><i>Appointing Authority</i></b>	<b><i>Appointee Qualifications</i></b>
House speaker	<ul style="list-style-type: none"> <li>• Expert in prescription drug supply chains</li> <li>• Expert in federal law on prescription drug shortages</li> </ul>
Senate president pro tempore	<ul style="list-style-type: none"> <li>• Representative of hospitals</li> <li>• Representative of providers who treat patients with rare diseases</li> </ul>
House majority leader	<ul style="list-style-type: none"> <li>• Representative of the Mohegan or Mashantucket Pequot tribes</li> </ul>

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House minority leader	<ul style="list-style-type: none"> <li>• Unspecified qualifications</li> </ul>
Senate minority leader	<ul style="list-style-type: none"> <li>• Unspecified qualifications</li> </ul>

The task force also includes the following seven officials or their designees: the Department of Consumer Protection (DCP), DECD, health strategy, insurance, public health, and social services commissioners and UConn Health Center’s chief executive officer.

Appointing authorities must make their initial appointments within 30 days after the bill’s passage and fill any vacancy.

The House speaker and Senate president pro tempore must select the task force chairpersons from among its members. The chairpersons must schedule and hold the first meeting within 60 days after the bill’s passage. The General Law Committee’s administrative staff serves in that capacity for the task force.

The bill requires the task force, starting by January 1, 2026, to annually report its findings and recommendations to the General Law, Human Services, Insurance and Real Estate, and Public Health committees. The reports must identify (1) those drugs the task force determines are at risk of shortage and (2) strategies to mitigate these shortages, including ways to increase in-state production of drugs that are at risk of shortage and critically necessary for health care in the state.

## **§ 6 — STRATEGIC SUPPLY CHAIN INITIATIVE**

The bill requires the DECD commissioner to expand the department’s Strategic Supply Chain Initiative to include efforts to prevent or mitigate prescription drug shortages. This must include incorporating the task force’s recommendations (see § 5).

Under the bill, the initiative is a DECD-administered program to help state-based companies increase their production capacity to win new business and attract out-of-state and international supply chain operations.

EFFECTIVE DATE: July 1, 2025

## **BACKGROUND**

### ***Connecticut Unfair Insurance Practices Act***

The law prohibits engaging in unfair or deceptive acts or practices in the business of insurance. It authorizes the insurance commissioner to conduct investigations and hearings, issue cease and desist orders, impose fines, revoke or suspend licenses, and order restitution for per se violations (i.e. violations specifically listed in statute). The law also allows the commissioner to ask the attorney general to seek injunctive relief in Superior Court if he believes someone is engaging in other unfair or deceptive acts not specifically defined in statute.

Fines may be up to (1) \$5,000 per violation to a \$50,000 maximum or (2) \$25,000 per violation to a \$250,000 maximum in any six-month period if the violation was knowingly committed. The law also imposes a fine of up to \$50,000, in addition to or in place of a license suspension or revocation, for violating a cease and desist order (CGS §§ 38a-815 to -819).

### ***Connecticut Unfair Trade Practices Act***

By law, CUTPA prohibits businesses from engaging in unfair and deceptive acts or practices. It allows the DCP commissioner, under specified procedures, to issue regulations defining an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, impose civil penalties of up to \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and up to \$25,000 for a restraining order violation.

### ***Legislative History***

The House referred the bill (File 414) to the Appropriations Committee, which reported a substitute that eliminated provisions on a Canadian prescription drug importation program.

***Related Bill***

sSB 11 (File 420), §§ 16, 23-25, & 36-37, favorably reported by the Human Services and Judiciary committees, has provisions similar to this bill.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable

Yea 19      Nay 3      (03/13/2025)

Insurance and Real Estate Committee

Joint Favorable

Yea 8      Nay 5      (04/15/2025)

Appropriations Committee

Joint Favorable Substitute

Yea 44      Nay 6      (05/05/2025)