



Greg Schwab

## *Bill Analysis*

*Legislative Service Commission*

**Sub. H.B. 221**  
(Corrected Version)  
123rd General Assembly  
(As Reported by H. Insurance)

**Reps. Van Vyven, Allen, Callender, Cates, Jerse, Mottley, Ogg, Salerno, Schuler, Terwilleger, Trakas, Young**

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### **BILL SUMMARY**

- Provides for the establishment and operation of the Ohio Mandated Benefits Review Council.
- Requires the Legislative Service Commission to review each bill receiving second consideration in either house of the General Assembly and to prepare a mandated benefits report if it determines that the bill includes a mandated benefit.
- Requires the Superintendent of Insurance, upon receipt of a mandated benefits report, to arrange for an independent actuarial review of mandated benefits included in legislation.
- Requires the Mandated Benefits Review Council to review the findings of the independent actuarial review and to make written recommendations to the General Assembly.
- Provides for the repeal of the bill's provisions on December 31, 2003.

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### **CONTENT AND OPERATION**

**Legislative Service Commission to review bills and prepare mandated benefits reports; "mandated benefits" defined**

(secs. 103.144 and 105.01)

The bill requires the Legislative Service Commission to perform certain services within seven days after any bill receives second consideration (referral to a standing committee) in either house of the General Assembly. These services

are: (1) review the bill to determine whether the bill includes a mandated benefit, (2) if it determines that the bill includes a mandated benefit, prepare a written mandated benefits report setting forth the results of this review, and (3) distribute copies of the report to the chairperson of the committee to which the bill has been assigned, to the Ohio Mandated Benefits Review Council (*see*, "**Ohio Mandated Benefits Review Council**," below), and to the Superintendent of Insurance. The bill defines a "mandated benefit" as the following, considered in the context of a sickness and accident insurance policy or a health insuring corporation policy, contract, or agreement:

(1) Any required coverage for a specific medical or health-related service, treatment, medication, or practice;

(2) Any required coverage for the services of specific health care practitioners;

(3) Any requirement that an insurer or health insuring corporation offer coverage to specific individuals or groups;

(4) Any requirement that an insurer or health insuring corporation offer specific health care services, treatments, or practices to existing insureds or enrollees;

(5) Any required expansion of, or addition to, existing coverage;

(6) Any mandated reimbursement amount to specific health care practitioners.

However, the bill specifies that "mandated benefit" does not include any required coverage or offer of coverage, any required expansion of, or addition to, existing coverage, or any mandated reimbursement amount to specific practitioners, within the context of any public health benefits arrangement, including, but not limited to, the coverage of beneficiaries enrolled in Medicare or Medicaid.

The bill also requires the Legislative Service Commission, within seven days after an amendment to the bill is adopted, or a substitute bill is adopted, by its assigned committee to review the amendment or substitute bill to determine whether the amendment or substitute bill includes a mandated benefit. If the amendment or substitute bill includes a mandated benefit, the Legislative Service Commission is required to prepare, within this seven-day review period, a written mandated benefits report if a report was not previously prepared in connection with the bill, or, a revision of any previously issued mandated benefits report, to

reflect the changes proposed by the amendment or substitute bill. The new or revised mandated benefits report is also to be distributed to the chairperson of the committee to which the bill is assigned, to the Ohio Mandated Benefits Review Council, and to the Superintendent of Insurance.

**Ohio Mandated Benefits Review Council**

**Creation of the Ohio Mandated Benefits Review Council; Council membership**

(secs. 105.02 and 105.03; Section 3)

The bill creates the Ohio Mandated Benefits Review Council. The Council is to consist of 15 members, the membership consisting of the following:

(1) Six voting members, including: (a) three members of the Senate, appointed by the President of the Senate, not more than two of whom may be members of the same political party, and (b) three members of the House of Representatives, appointed by the Speaker of the House of Representatives, not more than two of whom may be members of the same political party.

(2) Nine additional members, who shall not vote unless a tie vote is cast by the voting members, including:

(a) Three representatives of consumers, appointed by the Governor with the advice and consent of the Senate, not more than two of whom shall be members of the same political party. None of the representatives of consumers are to be employed by, or in any way affiliated with or biased toward, any of the members of the Council representing health care providers, health insuring corporations, sickness and accident insurers, or employers. One of these members is to represent the interests of public employers and their employees as consumers of health care.

(b) Two representatives of health care providers, one of whom is to be appointed by the President of the Senate and one of whom is to be appointed by the Speaker of the House of Representatives;

(c) One representative of health insuring corporations, appointed by the President of the Senate;

(d) One representative of sickness and accident insurers, appointed by the Speaker of the House of Representatives;

(e) One representative of Ohio employers employing 50 or fewer employees, appointed by the President of the Senate, which employer is not a

health care provider, a health insuring corporation, or a sickness and accident insurer;

(f) One representative of Ohio employers employing more than 50 employees, appointed by the Speaker of the House of Representatives, which employer is not a health care provider, a health insuring corporation, or a sickness and accident insurer.

The bill requires the initial appointments to the Ohio Mandated Benefits Review Council to be made no later than 60 days after its effective date.

The following rules apply to those Council members appointed from outside the Ohio House of Representatives and Senate:

(1) Of the initial appointments, three appointments are to be to a term ending June 30, 2001, three to a term ending June 30, 2002, and three to a term ending June 30, 2003. Thereafter, terms of office are for three years, with each term ending on the same day of the same month as did the term it succeeds;

(2) Each member is to hold office from the date of the appointment until the end of the term for which the member was appointed;

(3) Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed is to hold office as a member for the remainder of that term;

(4) A member is to continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of 60 days has elapsed, whichever occurs first.

Council members appointed from the membership of the Ohio House of Representatives or the Senate are to serve during their terms as members of the General Assembly and until their successors are appointed and qualified, notwithstanding the adjournment of the General Assembly of which they are members or the expiration of their terms as members of such General Assembly.

The bill provides that members of the Council are to serve without compensation, but are to be reimbursed for actual and necessary expenses incurred in the performance of their duties. The bill requires vacancies on the Council to be filled in the manner provided for original appointments.

**Meetings of the Mandated Benefits Review Council; organization of the Council**

(sec. 105.03)

The bill requires meetings of the Mandated Benefits Review Council to be called in such manner and at such times as prescribed by rules adopted by the Council. A majority of the membership of the Council constitutes a quorum and no action may be taken by the Council unless the action is approved by a majority of the voting members. If a tie vote is cast by the voting members, the nine additional Council members are required to cast a vote on whether to approve the action. The majority vote of the additional Council members is to be counted as a single vote for the purpose of breaking the tie vote cast by the voting members.

The Council is required to organize by selecting from among the voting members a chairperson, a vice-chairperson, and such other officers as it considers necessary. The Council is required to adopt rules for the conduct of its business and the election of its officers. Each Council member, before entering upon the member's official duties, must take and subscribe to an oath of office, to uphold the constitutions and laws of the United States and Ohio and to perform the duties of the office honestly, faithfully, and impartially.

**Duties of the Mandated Benefits Review Council and related duties of the Superintendent of Insurance**

(secs. 105.05(A) and (C) and 105.07)

The bill requires the Superintendent of Insurance, upon the Superintendent's receipt of a mandated benefits report prepared by the Legislative Service Commission, to arrange for an independent actuarial review of the mandated benefit. The Superintendent is to retain one or more independent actuaries on a consulting basis to determine, pursuant to the bill's requirements, the medical efficacy and financial impact of the mandated benefit. The bill requires the Superintendent to assist the actuary or actuaries in obtaining any information needed.

The bill requires the actuaries performing reviews of mandated benefits to do all of the following:

- (1) Use appropriate assumptions that accurately demonstrate the financial impact of the mandated benefit;
- (2) Determine to what extent the absence of the mandated benefit results in financial hardship to the general population;

(3) Determine the extent of public demand for the mandated benefit, and to what extent voluntary coverage of the benefit is available;

(4) Determine the extent of public demand for inclusion of the mandated benefit in arrangements negotiated through collective bargaining;

(5) Consult with relevant medical experts, attorneys, and other professionals knowledgeable in matters related to the performance of an actuarial review of a mandated benefit;

(6) Consider the results of at least one professionally acceptable controlled trial and the results of any other relevant peer-reviewed research specifically centered around the benefit;

(7) If applicable, determine the extent to which: coverage will increase or decrease the cost of the treatment or service; a similar mandated benefit in other states has affected charges, costs, utilization, and payments for services and treatments in those states; coverage will increase or decrease the appropriate use of the treatment or service; coverage will increase or decrease the administrative expenses of insurance companies and health insuring corporations; coverage will increase or decrease premiums; existing mandated benefits meet the proposed requirements; small employers, medium-sized employers, and large employers will be financially impacted; and coverage will impact the total cost of health care.

Within 45 days after receiving a mandated benefits report prepared by the Legislative Service Commission, the Superintendent must submit the findings of the actuarial review to the Council. The bill requires the Superintendent to provide any appropriate professional, technical, and clerical support from the Superintendent's staff needed by the Council to fulfill its duties.

The Council is required to hold a public meeting to consider the findings of the actuarial review. The Council is authorized to administer oaths and to hold public hearings at such times and places within Ohio as may be necessary to carry out the purposes and intent of the bill's provisions as related to the Council. The bill requires the Council to make a written recommendation to the General Assembly within 30 days after its receipt of the actuarial findings. The bill prohibits the Council from making a recommendation that has not been approved by a majority of the voting members of the Council. If a tie vote is cast by the voting members, the nine additional Council members are required to cast a vote on whether to approve the recommendation. The majority vote of the additional Council members is to be counted as a single vote for the purpose of breaking the tie vote cast by the voting members.

The Council is required to prepare an annual summary of its recommendations with respect to proposed and existing mandated benefits (*see*, "*Council granted additional review authority*," below, with regard to existing mandated benefits), and is required to submit a copy of that summary to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

*Council granted additional review authority*

(secs. 105.05(B) and 105.07(A))

In addition to carrying out the mandatory duties assigned to it, the bill authorizes the Mandated Benefits Review Council to review the existing provisions of the Revised Code that include mandated benefits, from time to time. The Council may request the Superintendent to arrange for an independent actuarial review of the existing mandated benefits. Upon receipt of the Council's request, the Superintendent is required to arrange for the performance of an independent actuarial review, which review is to be conducted in the same manner provided for the performance of an actuarial review following the Legislative Service Commission's preparation of a mandated benefits report. The Council is required to forward its recommendations regarding these mandated benefits to the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the committees of the General Assembly that have primary jurisdiction over health insurance.

*Scheduled repeal of the bill's provisions*

(Section 2)

The bill provides for the repeal of all of the Revised Code sections enacted by the bill, effective December 31, 2003.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-03-99	p. 261
Reported, H. Insurance H0221-RH.123/rss	05-12-99	pp. 644-645