



Greg Schwab

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 33**

125th General Assembly  
(As Introduced)

**Reps. Olman, Callender, Miller, Peterson, Ujvagi, Allen, Hartnett, Jerse, Hollister, Boccieri, Perry, S. Patton, D. Stewart, Oelslager, Chandler, Brown, Yates, Carano, Kearns, Strahorn, S. Smith, Koziura, Driehaus, DePiero, Cirelli, Harwood**

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### **BILL SUMMARY**

- Prohibits discrimination in the coverage provided for the diagnosis, care, and treatment of mental illness and substance abuse or addiction in sickness and accident insurance policies and in private and public employer self-insurance plans.
- Defines mental health services and services for alcohol and drug abuse or addiction as basic health care services for purposes of the Health Insuring Corporation Law, thereby requiring all health insuring corporations that offer coverage for basic health care services to also offer like coverage for these services.

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### **CONTENT AND OPERATION**

#### ***Mental illness and substance abuse benefits under policies of sickness and accident insurance and self-insurance plans; definitions***

(secs. 3923.28(A) to (C) and 3923.281(A) to (C))

The bill requires each policy of sickness and accident insurance and each plan of health insurance to provide benefits for the diagnosis and treatment of mental health conditions and substance abuse or addiction conditions on the same terms and conditions as, with benefits no less extensive than, those provided under the policy or plan for the diagnosis and treatment of all other physical diseases and disorders. The bill defines a "plan of health insurance" to include any private or public employer self-insurance plan that provides payment for health care benefits for other than specific diseases or accidents only, which benefits are not provided by contract with a sickness and accident insurer or health insuring corporation. A

"policy of sickness and accident insurance" includes any individual or group policy of sickness and accident insurance providing health care coverage that is not limited to specified diseases or accidents.

The bill defines a "mental health condition" as any condition or disorder involving mental illness, as defined by the most recent edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, or, as defined by any diagnostic category listed in the mental disorder section of the most recent edition of the *International Classification of Diseases*. A "substance abuse or addiction condition" is defined as any alcohol or drug related disorder, as defined by the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*, or, as defined by a diagnostic category listed in the most recent edition of the *International Classification of Diseases*.

The bill specifies that its equal benefits mandate applies to all coverages and terms and conditions of a policy of sickness and accident insurance or a plan of health insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

The bill exempts its equal benefits mandate from the review otherwise required by section 3901.71 of the Revised Code. Section 3901.71 of the Revised Code requires the Superintendent of Insurance to hold a public hearing to consider any new health benefit mandate contained in a law enacted by the General Assembly. A new health benefit mandate may not be applied to policies and plans of insurance until the Superintendent determines that the mandate can be fully and equally applied to self-insured employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA), and to employee benefit plans established by the state or its political subdivisions, or their agencies and instrumentalities. ERISA generally precludes state regulation of benefits offered by private self-insured plans.

### Conditions

(secs. 3923.28(B) and (D) and 3923.281(B) and (D))

Under the bill, equal benefits need not be provided for the diagnosis and treatment of mental health conditions and substance abuse or addiction conditions unless the condition is clinically diagnosed by a licensed physician, psychologist, professional clinical counselor, professional counselor, independent social worker, or clinical nurse specialist with a mental health specialty. Further, equal benefits need not be provided if a prescribed treatment is experimental or investigational; the treatment must have proven its clinical effectiveness in accordance with generally accepted medical standards.

The bill's equal benefits mandate does not apply to policies of sickness and accident insurance providing coverage to Medicaid beneficiaries, or to policies providing coverage for workers' compensation claims. The equal benefits mandate does not apply to a plan of health insurance if federal law supersedes, preempts, prohibits, or otherwise precludes its application.

**The equal benefits mandate is not to be construed as prohibiting certain actions by insurers and employers**

(secs. 3923.28(E) and 3923.281(E))

The bill specifies that its provisions do not prohibit an employer or sickness and accident insurer from: negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services; managing the provision of benefits for the diagnosis or treatment of mental health conditions and substance abuse or addiction conditions through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of another mechanism designed to limit coverage to treatment determined to be necessary; or, enforcing the terms and conditions of a policy or plan. The bill also states that its provisions do not prohibit a sickness and accident insurer from offering policies providing benefits solely for the diagnosis and treatment of mental health conditions or for the diagnosis and treatment of a substance abuse or addiction condition.

**Mental illness and substance abuse benefits under policies, contracts, and agreements of health insuring corporations**

(sec. 1751.01)

Under current law, a health insuring corporation is prohibited from offering coverage for a health care service defined as a basic health care service by section 1751.01 of the Revised Code unless it offers coverage for all listed basic health care services. Mental health services and services for alcohol and drug abuse or addiction are not listed as basic health care services.

The bill amends the definition of "basic health care services" in the Health Insuring Corporation Law to include mental health services and services for alcohol and drug abuse or addiction as listed basic health care services. The effect of this amendment is to require all health insuring corporations offering coverage for basic health care services to offer coverage for mental health services and services for alcohol and drug abuse or addiction. These services are removed from the list of services in the Health Insuring Corporation Law's definition of "supplemental health care services," a list providing types of health care services, "other than basic health care services" that a health insuring corporation may offer,

alone or in combination with either basic health care services or other supplemental health care services.

In order to permit a health insuring corporation to offer coverage for mental health care services or services for alcohol and drug abuse or addiction independent of an offering of that coverage as part of coverage for basic health care services, the bill further amends the definition of "supplemental health care services." The bill adds language to that definition, stating supplemental health care services "also includes" mental health services and services for alcohol and drug abuse or addiction when these health care services are offered alone or in combination with other supplemental health care services. The bill adds language, within the definitions of both "supplemental health care services" and "basic health care services," to specify that coverage for mental health services and services for alcohol and drug abuse or addiction may be offered without an offering of coverage for all listed basic health care services.

Certain provisions of the Health Insuring Corporation Law, Chapters 1751. and 1753. of the Revised Code, are applicable only to a health insuring corporation's provision of basic health care services. Such provisions include, but are not limited to, a limitation on copayments, a prohibition on maximum lifetime benefits, and the implementation of a quality assurance program. Mental health services and services for alcohol and drug abuse or addiction, included in a policy, plan, or agreement as part of basic health care services, would be subject to these provisions.

**Repeal of existing mandates for treatment of mental disorders and alcoholism; amendment of cross-references**

(secs. 1739.05 and 3923.51; repeal of existing sections 3923.28 to 3923.30)

Existing law requires those group policies of sickness and accident insurance providing coverage for other than specific diseases or accidents only, which policies specifically provide coverage for mental or emotional disorders, to provide outpatient treatment benefits equal to at least \$550 annually. Existing law also requires those policies of sickness and accident insurance providing coverage for other than specific diseases or accidents only to provide annual benefits for the treatment of alcoholism that are at least equal to \$550. (Secs. 3923.28 and 3923.29.) Similar benefit requirements apply to self-insured health care plans, including those offered by the state and its political subdivisions and their instrumentalities (sec. 3923.30).

The bill repeals existing sections 3923.28 to 3923.30 of the Revised Code, the subject matter of these sections being covered by the broader provisions of the bill's sections 3923.28 and 3923.281. The bill amends cross-references to the

repealed sections, which cross-references are contained in existing sections 1739.05 and 3923.51 of the Revised Code.

**Application of the bill**

(Section 3)

Section 1751.01 of the bill applies to health insuring corporation policies, contracts, and agreements delivered, issued for delivery, or renewed in Ohio on or after the bill's effective date; section 3923.28 of the bill applies to sickness and accident insurance policies, as defined in section 3923.01 of the Revised Code, on or after the bill's effective date; and section 3923.281 of the bill applies to self-insurance plans established or modified in Ohio on or after the bill's effective date.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	02-03-03	p. 85

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