

CHAPTER 226
SB 91 – FINAL VERSION

01/30/14 0121s
30Apr2014... 1357h

2014 SESSION

13-0878
01/05

SENATE BILL **91**

AN ACT relative to drug use not approved by the Food and Drug Administration.

SPONSORS: Sen. Carson, Dist 14; Rep. Emerson, Ches 11

COMMITTEE: Commerce

AMENDED ANALYSIS

This bill prohibits insurers from requiring use of a prescription drug for an indication not approved by the Food and Drug Administration unless certain circumstances exist.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through.~~]
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to drug use not approved by the Food and Drug Administration.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 226:1 Off-Label Prescription Drugs. Amend RSA 415:6-g, I to read as follows:

2 I. No insurer that issues or renews any individual policy of accident or health insurance
3 providing benefits for medical or hospital expenses and providing coverage for prescription drugs
4 shall:

5 (a) Exclude coverage for any such drug for a particular indication on the ground that the
6 drug has not been approved by the Food and Drug Administration (FDA) for that indication, if such
7 drug is recognized for treatment of such indication in one of the standard reference compendia or in
8 the medical literature [~~as recommended by current American Medical Association (AMA) policies~~];
9 or

10 (b) *As a condition of coverage, impose use of an alternative drug not approved*
11 *by the FDA for the indication being treated, unless such alternative drug is recognized for*
12 *treatment of such indication in one of the standard reference compendia or in the medical*
13 *literature. An override of such condition of coverage shall be expeditiously granted*
14 *consistent with RSA 420-J:7-b, II whenever the prescriber can demonstrate that the*
15 *alternative drug:*

16 (1) *Has been ineffective in the treatment of the insured's medical condition*
17 *in the past;*

18 (2) *Is expected to be ineffective based on the known relevant physical or*
19 *mental characteristics of the insured and the known characteristics of the drug regimen;*

20 (3) *Will cause or will likely cause an adverse reaction or other physical*
21 *harm to the insured; or*

22 (4) *Is not in the insured's best interest, based on medical necessity consistent*
23 *with RSA 420-J:7-b, II.*

24 226:2 Off-Label Prescription Drugs. Amend RSA 415:18-j, I to read as follows:

25 I. No insurer that issues or renews any policy of group accident or health insurance
26 providing benefits for medical or hospital expenses and providing coverage for prescription drugs
27 shall:

28 (a) Exclude coverage for any such drug for a particular indication on the ground that the

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1 drug has not been approved by the Food and Drug Administration (FDA) for that indication, if such
2 drug is recognized for treatment of such indication in one of the standard reference compendia or in
3 the medical literature [~~as recommended by current American Medical Association (AMA) policies~~];

4 **or**

5 *(b) As a condition of coverage, impose use of an alternative drug not approved*
6 *by the FDA for the indication being treated, unless such alternative drug is recognized for*
7 *treatment of such indication in one of the standard reference compendia or in the medical*
8 *literature. An override of such condition of coverage shall be expeditiously granted*
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14 *mental characteristics of the insured and the known characteristics of the drug regimen;*

15 *(3) Will cause or will likely cause an adverse reaction or other physical*
16 *harm to the insured; or*

17 *(4) Is not in the insured's best interest, based on medical necessity consistent*
18 *with RSA 420-J:7-b, II.*

19 226:3 Effective Date. This act shall take effect 60 days after its passage.

20
21 Approved: July 14, 2014

22 Effective Date: September 12, 2014