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TESTIMONY to the Committee on Insurance and Real Estate
January 31, 2013

Re: SB-596, An Act Concerning the Duties of the Connecticut Health Insurance Exchange

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Executive Director

Thank you for the opportunity to share our support for SB 596 and to thank the committee for raising this important bill.

We at the CT Health Policy Project have long worked to improve access to health care for every Connecticut resident. As a consumer advocacy organization, we get calls every day on our helpline from uninsured consumers desperately seeking health coverage. In the vast majority of cases, the barrier to coverage is financial. Health insurance in Connecticut is not affordable.

The federal Affordable Care Act gives Connecticut a historic opportunity to make coverage affordable for uninsured state residents through funding and support of the CT Health Insurance Exchange. Exchanges are user-friendly, fair, and transparent marketplaces where consumers and small businesses can buy affordable, decent coverage. At least 250,000 state residents are expected to purchase coverage in the Exchange, more than any private company or the state employee plan.

The best available tool for affordability is negotiating premiums with insurers on behalf of customers. Ninety percent of large employers use competitive bidding to select health plans for their employees and small businesses pay 18% more than larger ones because they don't have negotiating power. There are two state exchanges currently operating. Massachusetts' Connector has kept premiums lower inside their exchange than outside using negotiation. An official there described their success – "We have the same tools any large employer has." Utah, in contrast, does not negotiate premiums in their exchange, allowing any insurer that meets minimal standards to participate. Premiums inside Utah's exchange are higher than those outside.

Unfortunately, Connecticut's Exchange has decided to pursue the Utah model and not to actively negotiate premiums with insurers, claiming that insurers might find it "too adversarial". This concern, that plans will not participate, is unfounded. California's exchange has clear plans to negotiate rates with insurers and has attracted letters of intent from thirty insurers. Large employers seeking competitive health benefit bids, have no difficulty attracting plans.

Right now, health plans are drafting their bids, including premiums and consumer costs, knowing that the state intends to take all bidders (that meet minimal federal standards), that they will not check the product (the Exchange has also voted not to check provider panels with secret shopper surveys), and they will not negotiate on price. No one should be surprised that premiums will not be affordable.

Without negotiation, it is unclear what value Connecticut's Exchange provides beyond current insurance websites. I urge you to pass SB 596 to improve affordable health insurance options for Connecticut's uninsured. Thank you for your time and your commitment to improving the welfare of every Connecticut resident.

CT Health Insurance Exchange must negotiate on behalf of consumers

The promise of the CT Health Insurance Exchange, now in development, is meant to be a fair, transparent market for consumers mandated to buy health coverage. Affordability is key to reducing the number of uninsured state residents and ensuring value for consumers. The federal Affordable Care Act (ACA) conferred a special status on state exchanges, providing generous federal start up resources and a large, guaranteed customer base of federally subsidized consumers. It is estimated that one in ten Connecticut residents will rely on the exchange for coverageⁱ, a larger purchasing pool than any employer group in the state.

Like large employers, other state exchanges negotiate with insurers on behalf of members to maximize value and affordability. Termed “active purchasing,” states including California and Massachusetts use their state exchanges’ “stature and market strength to promote consumer value through insurer competition on price and quality.”ⁱⁱ Massachusetts saves millions of dollars for consumers each year by negotiating with insurers.

Unfortunately Connecticut’s exchange is planning a more passive approach, allowing any plan that meets minimal, elementary requirements under federal law, involving no negotiation with insurers.ⁱⁱⁱ Federal regulations are meant to be a floor, not a ceiling for state exchange standards.

The exchange’s own researchers found in surveying likely customers that “one of the most attractive aspects of the Exchange is that the big insurance companies compete for their business.”^{iv} The report found extensive resistance and skepticism about the exchange and insurance in general; one of the only attractive features was competition between plans for a place in the exchange.

It was the state legislature’s intent that the exchange pursue active purchasing. Governing legislative language was drawn from California’s active purchasing statute -- “The exchange is authorized and empowered to . . . limit the number of plans offered, and use selective criteria in determining which plans to offer, through the exchange, provided individuals and employers have an adequate number and selection of choices.”^v Federal regulators have encouraged state exchanges to foster competition. “The Affordable Care Act helps create a competitive private health insurance market through the establishment of Affordable Insurance Exchanges. These State-based, competitive marketplaces, which launch in 2014, will provide millions of Americans and small businesses with “one-stop shopping” for affordable coverage.”^{vi}

While Connecticut’s exchange staff have left open the possibility that they will negotiate for consumers in future years, we find this very unlikely for a number of reasons. If Connecticut intends to make no improvements in the current system and to do nothing differently, the value of the exchange is unclear.

The Benefits of Active Purchasing

There is ample evidence that competition and negotiating with insurers reduces costs. Ninety percent of US large employers, including most in Connecticut, use competitive bidding to select health plans for their employees.^{vii} Small businesses, which do not have sufficient market clout to negotiate, pay 18% more than large companies on average.^{viii} Connecticut's exchange is expected to enroll 250,000 to 300,000 state residents^{ix}, more than the state employee or any private plan in the state, well large enough to effectively negotiate on behalf of members.

Through competitive bidding, Massachusetts's exchange has kept the rate of premium increase inside their exchange to half the rate in the outside market, saving consumers between \$16 and \$20 million in FY 2010 alone.^x As will be true in Connecticut in 2014, consumers are required to purchase in Massachusetts's exchange to access affordability subsidies. In 2007 Massachusetts's exchange was not satisfied with premium bids offered by any plan. The Governor asked them to go back and "sharpen their pencils"; all plans all came back with lower bids.^{xi} The Massachusetts exchange has never excluded an insurer. In fact, the exchange and reforms in Massachusetts attracted a new insurer to the state, the first in almost two decades. The new plan offered lower costs, driving prices even lower for consumers.^{xii} A Massachusetts exchange official explains their success -- "We have the same tools any large employer has."^{xiii}

In contrast, Utah's exchange includes any qualified plan with very limited qualifications, similar to what Connecticut's exchange is planning. In contrast to Massachusetts's experience, prices are **higher** inside Utah's exchange than in the outside market. A study found that prices are \$60 to \$150 per month higher in Utah's exchange than for a comparable product outside the exchange.^{xiv} Not surprisingly, Utah's exchange has attracted very low enrollment. As of October 2012 the exchange had only 7337 members;^{xv} Utah has 396,400 uninsured residents.^{xvi} The lack of standards has also led to a confusing array of 170 plan choices.^{xvii} Notably, without the need for negotiation, Utah's exchange has been managing with only two staff people.^{xviii}

Extensive research has found that consumers don't necessarily want the cheapest insurance plan, rather they want the best value for their dollars.^{xix} The exchange can be a powerful tool to improve the quality of insurance plans both inside and outside the exchange.^{xx} Additional standards being considered and adopted by other state exchanges in the interests of consumers include patient satisfaction, timely access to providers, prevention, population health status, requirements to serve underserved areas of the state, better than minimal provider networks, continuity of care, efficiency, community benefits, medical loss ratios, support for patient-centered medical homes, payment reform innovations, wellness incentives, chronic disease management, all payer claims database participation, support for health information technology and exchange, patient safety improvements, overtreatment disincentives, and inclusion of value-based purchasing models.^{xxi}

Active purchasing could also help simplify consumer decision-making. When consumers are offered too many options, insurers can use this confusion to improve their market share based only on the number of options rather than value.^{xxii} Research by Massachusetts's exchange found that between six and nine choices was optimal for consumers making clear choices based on meaningful differences between plans.^{xxiii} A recently published study found that in 2009, because of poor and confusing information, only 5.2% of Medicare Part D beneficiaries made the most effective choice for themselves; on average recipients paid \$368 more each year than they needed to.^{xxiv} To help consumer decision-making, the

federal government now only approves Medicare Part D plans that are “substantially different from those currently on the market by the same insurer”.^{xxv} Ninety three percent of US large employers are reducing the number of plans they offer.^{xxvi}

There are a multitude of additional reasons Connecticut's exchange should actively purchase coverage on behalf of consumers. There is evidence that CBIA's ability to offer a broad range of plans in their private exchange is hampered by their “any willing insurer” model, rather than partnering selectively with plans willing to innovate in providing value.^{xxvii} The Federal Employee Health Benefits Program, that purchases coverage on behalf of eight million Americans, is able to maintain value and control costs through negotiation rather than regulation.^{xxviii} There is evidence that some insurers, especially nonprofits, would welcome competition.^{xxix} Nonprofits may believe they can better compete, as they do not have to generate profits for shareholders. Connecticut does not now have any nonprofit insurers. If the exchange is responding to pressure from current for-profit insurers,^{xxx} they may be making the environment less receptive to new nonprofit entrants, reducing consumer choice and limiting downward pressure on premiums.

Current offerings in Connecticut's market barely reach bronze level coverage under the ACA.^{xxxi} The exchange recently adopted a relatively comprehensive essential health benefit package, which may put upward pressure on costs. Connecticut needs to use every tool to keep coverage affordable, including active purchasing.

So why don't they want to negotiate?

Good question. At the time of writing this, there has been no public discussion or comment on the exchange's plan not to negotiate for consumers. However in private discussions, several arguments have been offered.

There is a belief that negotiating could limit consumer choice in the exchange. As stated above, limiting consumer choice competitively based on value and cost is welcomed by consumers. In fact, too many choices are often overwhelming and leads to decisions that are not optimal for consumers and their families. Medicare and most large employers are reducing the number of consumer options, based on value.

Plans will not participate in the exchange if they have to compete. This has not been the experience of other states. Massachusetts's active purchaser exchange attracted a new insurer to their market – the first in almost two decades. California is now designing an active purchasing exchange and insurers are constructively participating in how that system will be structured.^{xxxii}

Connecticut's insurance market may not be competitive enough to support active purchasing. While Connecticut's market, like every state, would benefit from more companies, our market is more competitive than Massachusetts's or the US average.^{xxxiii} We will never know if we can get enough bids if we don't try.

Consumers may have to switch plans if one loses out. Uninsured consumers don't currently have insurance plans to switch from, making the issue irrelevant for that population. Consumers are far more concerned about keeping their provider than their health plan. Most providers accept multiple

insurance plans. In addition, plans often allow non-participating providers to continue to care for current patients – plans often hope to get those providers to join their networks.

Losing in a competition for such a large purchasing pool could harm an insurer's business. This concern appears predicated on the best interests of the insurance industry over consumers. A corollary to this concern is that the state has an obligation to prop up lower value plans with consumers' dollars.

We can implement active purchasing in later years. Connecticut consumers and advocates have been given this promise too many times to count and it never happens. Task force reports go on shelves collecting dust, never implemented. It is unclear what is going to change in the future to make negotiations more attractive to the exchange. Business groups that represent large employers understand the importance of installing prudent purchasing strategies at the beginning or "it will be much more difficult to install them later."^{xxxiv} Shifting plans that are not competitive out of the exchange after the first year could be disruptive to consumers, providers and small businesses. The insurance industry is a very strong lobbying force in Connecticut. It is unlikely that if they are able to secure a lucrative, uncompetitive exchange environment initially that they would be willing to allow competition in the future.

We don't have time to implement active purchasing. In the earliest conversations with Board members and staff at the inception of Connecticut's exchange, advocates raised this as our priority issue. Connecticut is ahead of all but a handful of states in moving our exchange. Eventually most other states will also begin developing exchanges and it is unlikely that the federal government will tell them they are too late to move forward. Federal regulators have been very clear that they want to work with states as much as possible. A request for flexibility, especially to improve value and control costs, is prudent. Concerns about staff time can be addressed by engaging consultants experienced in getting the best deal for payers. Most large employers contract with seasoned experts to negotiate their health benefits. Detailed information on the risk profile and health needs of the exchange population is not needed to elicit bids from health plans.

Subsidized consumers' premiums are fixed, regardless of premium costs – so the actual cost of coverage is irrelevant to them. Premiums are only one part of consumer costs for coverage – copayments, coinsurance, deductibles, and services that are not covered are not fixed. Abandoning active purchasing also ignores the needs of the up to 130,000 unsubsidized consumers and 45,000 employees of small businesses who are expected to shop in the exchange.^{xxxv} It also ignores the potential competitive benefit to the rest of the market of improved value and lower costs.

Bottom line

Connecticut's exchange needs to use every possible tool to keep premiums affordable, especially as consumers will be legally required to secure coverage. Active purchasing is a powerful tool, proven successful in other states to control costs, improve quality and maximize value. It is foolish to exempt insurers from accountability and to ignore the potential benefits of active purchasing to Connecticut consumers and small businesses.

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- ^v CT PA 11-53, AN ACT ESTABLISHING A STATE HEALTH INSURANCE EXCHANGE
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