



Testimony of Ted Doolittle
Office of the Healthcare Advocate
Before the Insurance and Real Estate Committee
Re SB 328/HB5018
March 5, 2020

Good morning, Senator Lesser, Representative Scanlon, Senator Kelly, Representative Pavalock-D'Amato, and members of the Insurance and Real Estate Committee. For the record, I am Ted Doolittle, Healthcare Advocate for the State of Connecticut. The Office of the Healthcare Advocate ("OHA") is an independent state agency with a consumer-focused mission: assuring consumers have access to medically necessary healthcare; educating consumers about their rights and responsibilities under health plans; assisting consumers in disputes with their health insurance carriers; and informing legislators and regulators regarding problems that consumers are facing in accessing care, and proposing solutions to those problems.

I appreciate the opportunity to comment on SB-328/HB-5018, An Act Concerning Health Care Cost Growth in Connecticut. I support this act. This act would accomplish several important priorities that have the potential to relieve Connecticut residents of rapidly growing health care costs.

First, it calls for the Office of Health Strategy to establish a health care cost growth benchmark, and to work with providers who exceed that benchmark to constrain those

costs. The unconstrained growth of health care costs is a continued problem for Connecticut consumers, who bear those costs in the form of ever-increasing health insurance premiums, rising deductibles to relieve the pressure on those premiums, and other rising out of pocket costs. It is a continued problem for employers, whose ability to hire and offer pay raises is constrained by ever-growing costs of coverage for their employees. It is a problem, therefore, for Connecticut's ability to attract jobs and businesses and to grow as an economy. The health care cost growth benchmark has the potential to bring transparency to this problem, and could help to identify solutions that can address this growth.

Second, the bill provides for OHS to establish an annual health care quality benchmark that incorporates established measures of health care quality. This is a welcome policy development: the relationship between the cost and the quality of health care is often obscure even to health policy experts, let alone consumers. Where price information is available, consumers sometimes choose the most expensive option in the belief that quality correlates to price: that belief may not be well-founded. This initiative is necessary to ensure that actions the state, carriers, and providers may take to contain costs do not reduce the quality of care available to Connecticut consumers. Value to the consumer is a function not only of cost and price, but also of quality. Containing costs while eroding quality does not increase value, which should always be the lodestar of healthcare policy and legislation.

Third, the bill provides for the Department of Consumer Protection to establish a program to safely re-import prescription drugs from Canada. As this committee has heard many times, consumers in the United States pay significantly more for prescription drugs than consumers anywhere else in the developed world. Canadian reimportation is a mechanism to enable consumers to access drugs from a nearby market where the prices – having been negotiated by the Canadian government – are significantly lower than the prices – negotiated by insurance companies – of the same drugs available locally. This is likely to lower the prices of those drugs for the Connecticut consumers who elect to use the program. It may additionally reduce demand for locally available drugs, potentially lowering drug prices all around. In addition, the existence of a reimportation program may pressure pharmaceutical manufacturers and middlemen to lower the prices of the drugs

they sell domestically. Canadian re-importation is a good step toward reducing drug costs, but it is not the only step that the state should consider. As I testified regarding the insulin cost cap bill introduced earlier this year, the state should consider the following mechanisms for controlling prescription drug costs, in addition to allowing re-importation of select prescription drugs:

1. Require providers and/or pharmacists to certify that they are aware of and have taken into consideration the specific price that a particular patient and her insurance plan will be paying, when prescribing or dispensing a drug, and that they have specifically evaluated and rejected therapeutically equivalent alternatives.
2. Providing to prescribing providers real-time, actionable, plan-specific price information of all available types of prescription drug available to treat the patient's condition.
3. Require the Health Information Technology Officer and/or the Health Information Exchange to track providers who disproportionately prescribe more expensive drugs, and consider that data when evaluating those providers' participation in state-funded programs such as HUSKY, state employee and retiree health benefits, and Corrections.

In addition to the above suggestions, I note that the state of California is taking steps to establish its own supply of low-cost generic drugs by contracting with generic drugmakers. Connecticut, on its own or in partnership with another state or states, could take a similar step and either create a state-owned production facility or contract with existing generic drugmakers, and sell the generics to Connecticut residents. Such efforts are realistic. Trinity Health, one of the nation's largest hospital chains, in partnership with the federal Department of Veterans' Affairs and several other health organizations, is developing Civica Rx, an independent generic drug manufacturer, to create a supply of lower-cost generic drugs for its own use. Depending on the profit margins currently in place, there may be room for the state to significantly undercut existing prices while still turning a profit.

Finally, the bill codifies into law a bulletin of the Insurance Department regarding medical stop-loss policies. Medical stop-loss is used to limit employer exposure to excessive claims where the employer has provided a self-funded plan under federal ERISA law. Self-funded

plans are exempt from state regulation including benefits mandates passed into Connecticut law. Perhaps because they are exempt from covering state mandated benefits, self-funded plans are often cheaper than fully-insured plans. A majority of Connecticut residents who are not enrolled in HUSKY or Medicare receive health coverage through a self-funded plan, which has reduced the risk pool for fully insured plans. The use of stop-loss has enabled self-funded plans to reach smaller and smaller groups of employees, with some products being offered to groups as small as five lives, placing those groups beyond the protections of state regulation. However, unlike the underlying self-funded plans, the medical stop-loss products themselves are insurance policies, and so are not exempted under ERISA and may be regulated by the state. The Insurance Department issued a bulletin last year placing some restrictions on the attachment points at which a stop-loss plan would take effect, prohibiting stop-loss plans from adjusting the underlying claims, and placing certain restrictions on “lasering” which is identifying an attachment point for a particular enrolled member who is sick or has a pre-existing condition that is different than the attachment point for the rest of the group. This bill codifies that bulletin. I support this, but I would like to suggest an amendment. This bill removes the ability of CID to further regulate medical stop-loss plans through issuing future bulletins: I believe that the regulatory agency should retain the ability to issue bulletins when immediate action is necessary. The stop-loss marketplace is evolving rapidly and expanding mightily, and only if CID has the authority to evaluate and respond to new developments will the state be able to move quickly to protect Connecticut individuals and very small employers when problems emerge.

Thank you very much for your commitment to this timely and important issue. If you have any questions concerning my testimony, please feel free to contact me at Ted.Doolittle@ct.gov.