



Testimony of Ted Doolittle
Office of the Healthcare Advocate
Before the Committee on Public Health
Re SB 683
March 24, 2021

Good afternoon, Senator Abrams, Representative Steinberg, Senator Hwang, Senator Somers, Representative Petit, and members of the Committee on Public Health. 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 this opportunity to testify regarding SB 683, An Act Concerning Hospital Billing and Collection Efforts by Hospitals and Collection Agencies. I support this bill. My office has assisted thousands of Connecticut residents to deal with debt collection practices arising from the lack of health insurance or from underinsurance that leaves consumers with more financial liability than they can satisfy. OHA has also been pleased to partner with the UConn Health Disparities Institute on health coverage and debt collection fairness and reform issues over the past several years.

This bill proposes several significant reforms that would offer relief to Connecticut residents. First, it specifies that these reforms will apply not only to hospitals but also to “collection agents” which may or may not be affiliated with hospitals. This is an important addition that will ensure that the substantive reforms included in this bill cannot be gotten around simply by forming or hiring a separate corporate entity to collect the medical debt.

Second, the bill provides a statutory definition of “underinsured” individuals, and secures a number of consumer protections for them. These protections include:

- A limitation on the interest rate that a hospital or collection agent may charge an uninsured person for medical debt, which will often be less than the 5% maximum currently in statute;
- Protecting an uninsured person’s paycheck from garnishment, and their residence from foreclosure, in order to collect medical debt;
- Requiring a hospital to identify whether a debtor is eligible for charity care before referring the debtor’s case to a collection agent or initiating legal action to collect the debt;
- Staying collection efforts while an underinsured patient pursues an appeal with their insurance company;
- Prohibiting a hospital or collection agent from reporting an underinsured person’s debt to a credit reporting agency for at least a year.

These are important reforms that will protect many Connecticut health care consumers who cannot afford the high deductibles and out of pocket costs that they must satisfy in many health insurance plans. Consumers should not have to worry about losing their house when they take a loved one to the hospital for care. I support this bill.

I do wish to suggest some changes to the language which will make this bill even better and more effective at protecting consumers.

First, and most importantly, the Office of the Healthcare Advocate provides assistance to Connecticut consumers, free of charge, when dealing with their insurance issues. Insurance carriers are required to notify consumers that they may receive free assistance from OHA whenever the carrier issues an adverse determination. Hospitals and their affiliates should likewise be required to notify consumers that they can receive free assistance from OHA. Ideally, this notice should be included in a hospital’s invoices to a patient, but at a minimum, hospitals should be prohibited from sending a consumer’s balance to collections before notifying the consumer that they can receive OHA’s assistance, and for 60 days after that notification in order to ensure that the consumer has had opportunity to contact OHA and OHA has had opportunity to gather information and assist the consumer.

Next, section 1 of the bill prohibits hospitals and collection agents from charging an uninsured person interest greater than the lesser the following rates: the weekly average one-year constant maturity yield of U.S. Treasury Securities, as of the week preceding the date on which the patient first receives a bill, so long as that yield is at least 2 percent per annum. If the US Treasury discontinues publishing that rate, then the Connecticut Office of Health Strategy is to set a rate. In the absence of the other two rates, a rate of five percent. I confess that the purpose of writing the

limitation in this way is not apparent, and that, as written, this section may produce unintended consequences. It would be simpler to identify a statutory maximum rate. From a consumer protection standpoint, it is not clear that hospitals and collection agents should collect any interest at all. If they must be allowed to collect interest, that rate should be capped at or below the Consumer Price Index, which would enable them to preserve the value of the services but not to profit from consumers' ability or inability to pay.

In addition, section 1 of the bill defines underinsured individuals as individuals who are enrolled in a high deductible health plan, as defined by the Internal Revenue Code sections 220 and 223, and whose household income is less than 600% of the federal poverty level. This definition captures only people who are enrolled in an HSA-qualified HDHP, but there are many consumers in Connecticut who are enrolled in non-HSA-qualified plans which still have deductibles that leave them underinsured relative to their ability to meet their annual cost sharing. I would encourage the legislature to broaden the definition of "underinsured" to include those whose deductibles are equal to or higher than the limits set by the IRS for HSA-eligible plans, regardless of whether those plans are HSA-eligible. Language having this effect was proposed in SB 1049 this session and I encourage its adoption here.

In sections 2 and 3, the bill specifies that a hospital or collection agent may not pursue collections against a patient if the hospital or collection agent becomes aware that the patient has initiated a final appeal as defined in C.G.S. 38a-591a.¹ Consumers would benefit from this prohibition extending to the conclusion of external review by the Connecticut Insurance Department, as defined in C.G.S. 38a-591g, if external review is available to the consumer. In addition, a majority of Connecticut residents who receive health coverage through their employer are enrolled in "self-funded" plans that are governed by a federal law called "ERISA" and are exempt from state legislation. Those members will not be protected by this section. This language should be amended to include consumers who have exhausted their administrative remedies under 29 C.F.R. §§ 2560.503-1 and 2590.715-2719, and the language can also be modified to capture consumers who have health coverage plans that may not be subject to either federal or state regulations (such as healthcare sharing ministries), thereby extending these protections to all families with health coverage in Connecticut.

¹ Note: the language of Section 2 (a)(2)(B) of the bill includes multiple negatives which make the clause difficult to parse; OHA believes that "not" should be struck from the phrase "such underinsured patient has not received a final adverse determination" in order to prohibit hospitals from collecting from underinsured patients prior to those patients receiving a final adverse determination.

This bill will do a great deal to relieve consumers of the financial burdens of Connecticut's underinsured. I support this bill and I hope the legislature will adopt these recommendations and pass this legislation into law.

Thank you very much for your consideration of this testimony on this very important topic. If you have any questions concerning our position on this issue, please feel free to contact me at Ted.Doolittle@ct.gov.