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Connecticut State Medical Society Testimony on
House Bill 5090 An Act Regulating Third-Party Administrators
Insurance and Real Estate Committee
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Senator Crisco, Representative Fontana and Members of the Insurance and Real Estate Committee, on behalf of the more than 7,000 members of the Connecticut State Medical Society (CSMS), thank you for the opportunity to present this testimony to you on **House Bill 5090 An Act Regulating Third-Party Administrators**. CSMS appreciates the work this committee has done in passing this legislation out of committee in previous sessions. However, the need to revisit the legislation again this session provides an opportunity for further review and the opportunity to make the proposal stronger, consistent with efforts of the committee to protect consumers. CSMS continues to support the need to regulate Third Party Administrators (TPAs) and related entities. However, CSMS cannot understate the importance of clarifying certain aspects of the bill before you today before it is moved forward legislatively.

Provisions in the proposed legislation, such as standards for a written document between insurers and TPAs, as well as requirements to submit comprehensive information to the Department of Insurance are much-needed and much-overdue regulations that will further protect patients and physicians who provide their medical care. Furthermore, language establishing that a TPA is an extension of the insurer is critical, as is placing the same transparency requirements on TPAs that is being sought for insurers and other entities related to business practices and business operations.

However, the language before you today appears to suggest that a health insurer can act as a TPA and possibly avoid certain existing regulations that were designed to hold these health insurers accountable and responsible. CSMS respectfully submits that the language should clearly state that any insurer, regardless of the business functions they are serving, will be held to the same high standards and legal requirements presently established for such entities, and also be held to other standards if they are engaging in business practices of or like TPAs or similar entities. Simply providing administration should not allow exemption from all licensing requirements that presently exist to protect consumers.

Additionally, Section 2(b) 2 as written will have unintended consequences, and we recommend amendment of it to be consistent with general practice and state regulatory authority. We understand the intent of the language to delineate between ERISA and non-ERISA plans for the purposes of regulation. However, federal judicial interpretation of such ERISA exemptions specifically contemplate and state that those entities acting on behalf of such self-insured entities can be regulated at the state level if the regulation only extends to the business practices tied to the administration of the plans, such as claims transactions and claims payments, that have nothing to do with the actual determination of medical care or determination of plan benefits or design. In other words, this legislation, as presently drafted, would further limit the Department of Insurance's reach, unnecessarily, and cause the majority of those entities that are intended to

be regulated to be unregulated at the state or federal level. This provision would cause more than half of all Connecticut's insureds and their medical providers to not have the protections this bill intends to provide. We believe strongly that the Insurance Commissioner should be granted the same ability to regulate these entities associated with their business practices as is allowed under federal law.

Furthermore, TPAs often contract with entities other than insurers, such as Preferred Provider Organizations or Rental Networks. We request that the language clearly state that in the absence of an insurer contracting directly with the TPA, the TPA or the entity contracting directly with the provider be held responsible for the provision and payment of medical services. Furthermore, all claims- and payment-related regulations and legislation must apply to TPAs and like entities, including those regulations that address and require timely payment and restrict retrospective chart reviews.

CSMS and its members have a great deal of knowledge regarding the operation and use of TPAs and other intermediaries. We welcome the opportunity to work with committee members to build on efforts of past legislation and ensure passage of the most comprehensive legislation possible.