Anthem.

March 4, 2011

Statement
of
Anthem Blue Cross and Blue Shield
on
HB 6343 An Act Concerning Cooperative Health Care Arrangements

Good morning, Senator Coleman, Representative Fox and members of the Judiciary Committee. My name is Christine Cappiello and I am here today to testify on **HB 6343 An Act Concerning Cooperative Health Care Arrangements**

Anthem opposes this legislation for a number of reasons. To begin, current antitrust laws are working to ensure competition and fair prices. For over 100 years, these laws have prevented price-fixing, boycotts, allocation of markets and other actions that harm consumers by raising costs -- including the cost of health insurance. However **HB 6343**, would gut these consumer protections by granting physicians an exemption from state and federal antitrust laws.

HB 6343 is being pushed because it will allow independently practicing physicians to collectively bargain with health plans over payments and other contract terms. While some physicians are confused and frustrated by the rapid changes in the health care marketplace in recent years -- this is not the answer. Allowing doctors to form cartels will have immediate and negative consequences for consumers.

HB 6343 Will Make Health Care More Expensive

If physicians are permitted to set prices for their services, the inevitable result will be higher premiums and co-payments for consumers. This will undermine the tools Anthem Blue Cross and Blue Shield and other health plans is use to contain health care costs. For example, SB 114 would reduce the ability of health plans to negotiate realistic fee levels with physicians, which are a significant source of savings for our enrollees. This could drive up health premiums by approximately anywhere from 5.8 to 11.1 percent each year if a study by Charles River Associates, Inc. is correct.

This legislation fails to set meaningful limits on the concentration of economic bargaining power by physician groups. While the actual language of this legislation has not yet been drafted, if one assumes that Connecticut would at least follow the lead of Texas, the first state to enact such legislation, one limitation that may be included is that no joint negotiation can represent more than 10 percent of the licensed physicians in a health plan's geographic service area. But for many medical specialties, a group including all the physicians in a particular specialty would constitute less than 10 percent of all licensed physicians. Thus, 100 percent of a

region's anesthesiologists, if anesthesiologists did not comprise more than 10 percent of all physicians, or orthopedic surgeons or any other specialty, could join together to set the prices charged to health plans.

HB 6343 Will Erect Barriers to Health Care

By making health coverage less affordable, this proposal will increase the number of uninsured in Connecticut. The greatest harm will come to employees working in small firms, who already have difficulty purchasing health care. If physicians are allowed to form cartels, these workers will likely see their coverage reduced or eliminated.

While the bill may again follow the Texas lead and prohibit strikes by physicians, it probably would allow them to collectively decide whether or not they will contract with a particular health plan. This would not only cripple the health plan, but also deny access to care for the plan's enrollees who could not afford to pay the full charges, or higher co-insurance and deductible amounts, which the physicians may demand.

Current Antitrust Laws Allow Physicians to Work Together

Supporters of **HB 6343** claim this legislation is needed to enable physicians to be more effective advocates for their patients. However, existing antitrust laws provide ample opportunity to collaborate on issues that benefit patients. Under guidelines issued by the Federal Trade Commission and the U.S. Department of Justice:

- Physicians can collectively express their concerns about patient care and quality issues that may arise from their participation in managed care plans;
- Physicians can communicate with each other, and to health plans, about health plan contract terms and fee-related issues; and
- Physicians seeking greater negotiating power with health plans can join together in a business relationship or group practice.

An exemption from the antitrust laws is not needed because federal and state enforcement agencies do not challenge physicians for the conduct outlined above. What current antitrust law does not allow is conduct among physicians that would harm consumers, such as driving up provider fees and freezing out alternative, non-physician providers. For this reason, both the U.S. Department of Justice and the National Association of Attorneys General strongly believe the health care industry should not be given a blanket exemption from the law.

Conclusion

The proposed antitrust legislation would give physicians advantages that are unmatched by any other type of professional or worker. Moreover, despite assertions that managed care is forcing physicians to accept unreasonably low payments, the average physician net income reached a record high of $199,600 in 1978, the last year for which I can find figures. Further, since the average physician earns income from several health plans, it's hard to see how a single plan could force physicians to accept unreasonable payments or terms.

Supporters of **HB 6343** also contend consolidation among health plans gives them an unfair advantage in contract negotiations. However, Connecticut has antitrust laws and other regulations, which protect against health plan mergers that would result in an overconcentration of power to the detriment of competition and the public welfare. The reality is **HB 6343** would tilt the playing field toward physicians and would not benefit patients. It would increase health care costs, not improve quality.

We respectfully request that the Committee reject this legislation.