AN ACT CONCERNING COOPERATIVE HEALTH CARE ARRANGEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (Effective October 1, 2014) As used in this section and sections 2 to 11, inclusive:

(1) "Health care collaborative" means an entity comprised of health care practitioners who practice in two or more separate firms and that has (A) entered or plans to enter into a compensation agreement with a health plan to incentivize quality over volume and place healthcare practitioners at risk for some or all of the costs of inefficient health care delivery, or (B) arranged to implement an ongoing program to evaluate and modify health care practitioner practice patterns and create interdependence and cooperation among health care practitioners for the purpose of efficiently delivering health care;

(2) "Prospective health care collaborative" means an entity comprised of health care practitioners who practice in two or more separate firms that (A) is seeking recognition as a health care collaborative, or (B) has been issued a preliminary certificate of public advantage by the Office of the Healthcare Advocate;

(3) "Health care practitioner" means (A) a physician licensed under chapter 370 of the general statutes, (B) a chiropractor licensed under
chapter 372 of the general statutes, (C) a podiatrist licensed under
chapter 375 of the general statutes, (D) a naturopath licensed under
chapter 373 of the general statutes, or (E) an optometrist licensed under
chapter 380 of the general statutes;

(4) "Health plan" means an entity that pays for health care services,
including, but not limited to, commercial health insurance plans, self-
insurance plans, health maintenance organizations, managed care
organizations, as defined in section 38a-478 of the general statutes, or
any insurer or corporation subject to the insurance laws of this state;

(5) "Preliminary certificate of public advantage" means the written
authorization issued by the Office of the Healthcare Advocate
authorizing a prospective health care collaborative to enter into
negotiations with a health plan regarding compensation, prices and
certain terms and conditions of service;

(6) "Certificate of public advantage" means the certificate issued by
the Office of the Healthcare Advocate authorizing a health care
collaborative to implement a final agreement with a health plan on
compensation, prices and certain terms and conditions of service,
subject to the supervision of the Healthcare Advocate; and

(7) "Person" means an individual, association, corporation or any
other legal entity.

Sec. 2. (NEW) (Effective October 1, 2014) (a) Notwithstanding chapter
624 of the general statutes, a prospective health care collaborative or a
health care collaborative may negotiate on behalf of itself and its
associated health care practitioners and enter into agreements with
health plans to provide health care items and services for which
benefits are provided under such health plans, provided the
Healthcare Advocate determines that the prospective health care
collaborative or health care collaborative complies with the
requirements of sections 1 to 11, inclusive, of this act.

(b) Nothing in sections 1 to 11, inclusive, of this act shall be deemed
to limit the right of health care practitioners collectively to negotiate and jointly to contract with health plans without complying with the requirements of sections 1 to 11, inclusive, of this act.

(c) Nothing in sections 1 to 11, inclusive, of this act shall be deemed to affect or limit a health care practitioner from exercising his or her rights under the National Labor Relations Act, 49 Stat. 449 (1935), 29 USC 151 et seq., or any other applicable provisions of federal or state law.

Sec. 3. (NEW) (Effective October 1, 2014) (a) Prior to negotiating and contracting with a health plan, a prospective health care collaborative shall:

(1) Apply for and obtain a preliminary certificate of public advantage from the Office of the Healthcare Advocate. Such application shall be in a form prescribed by the Healthcare Advocate and shall identify: (A) The name of the prospective health care collaborative, (B) the names of the health care practitioners associated with the prospective health care collaborative, (C) (i) the manner in which the prospective health care collaborative's proposed method of health plan payment incentivizes quality over volume and places health care practitioners at risk for some or all of any inefficient health care delivery, or (ii) the prospective health care collaborative's arrangements to implement an active and ongoing program to evaluate and modify health care practitioner practice patterns and create interdependence and cooperation among health care practitioners for the purpose of efficiently delivering care, (D) the name of the health plan, (E) the expected effects of the negotiated contract on the quality and price of health care practitioner services, and (F) any other information as the Healthcare Advocate may prescribe; and

(2) Be found to be a health care collaborative by the Healthcare Advocate.
(b) No prospective health care collaborative shall engage in negotiations for the purpose of contracting with a health plan without first being granted a preliminary certificate of public advantage by the Healthcare Advocate.

(c) The Healthcare Advocate shall find that a prospective health care collaborative is a health care collaborative if such prospective health care collaborative (1) has placed or plans to place its associated health care practitioners at risk for some or all of their inefficient health care delivery through methods, including, but not limited to, pay-for-performance, capitation, shared savings and costs, bundled payment arrangements or other financial incentives or risk assumption mechanisms based in whole or in part on per episode, per population or per procedure costs, outcomes, patient satisfaction, education or welfare activities; or (2) implements an active and ongoing program to modify practice patterns by the health care collaborative's health care practitioners and creates a high degree of interdependence and cooperation among the health care practitioners to insure quality, including: (A) Mechanisms to monitor and control utilization of health care services that are designed to control costs and assure quality of care; (B) selecting network health compensations that are likely to further these efficiency objectives; or (C) investing capital, both monetary and human, in the necessary infrastructure and capability to realize the claimed efficiencies.

(d) Not later than twenty days after receiving a prospective health care collaborative's application, the Healthcare Advocate shall notify, in writing, such prospective health care collaborative of his or her decision to approve or reject such application. If the Healthcare Advocate rejects such application, he or she shall furnish a written explanation of any deficiencies, along with a statement of specific proposals for remedial measures to cure such deficiencies. The Healthcare Advocate may conduct a hearing, after giving notice to all interested parties, to obtain information necessary to make such decision.
Sec. 4. (NEW) (Effective October 1, 2014) (a) Upon receipt of a preliminary certificate of public advantage from the Healthcare Advocate authorizing negotiations between a health care collaborative and a health plan, a health care collaborative shall notify the Healthcare Advocate of any of the following events not later than fourteen days after the occurrence of such event: (1) The commencement of negotiations; (2) the conclusion of negotiations; (3) an impasse in the negotiations; or (4) the health plan's refusal to negotiate, cancellation of negotiations or failure to respond to a negotiation request. In such instances, a health care collaborative may request intervention from the Healthcare Advocate to require the health plan to participate in the negotiation pursuant to subsection (b) of this section.

(b) If the Healthcare Advocate determines that an impasse exists in the negotiations, or in the event a health plan declines to negotiate, cancels negotiations or fails to respond to a request for negotiation, the Healthcare Advocate shall:

(1) Designate a mediator to assist the parties in commencing or continuing such negotiations and in reaching a settlement of the issues presented in such negotiations. The mediator designated shall be experienced in health care mediation and shall be drawn from a list of such mediators maintained by the Healthcare Advocate, the American Arbitration Association or the Federal Mediation and Conciliation Service. The mediator so designated may only serve if approved by both parties. If the mediator is successful in resolving the impasse, the health care collaborative shall proceed as set forth in section 5 of this act; and

(2) If, after a reasonable period of mediation, the parties are unable to reach an agreement, appoint a fact-finding board of not more than three members drawn from the list of mediators maintained by the Healthcare Advocate, the American Arbitration Association or the Federal Mediation and Conciliation Service. Upon a vote of the majority of its members, the board shall have the power to make
recommendations for the resolution of the dispute.

(c) The fact-finding board shall, not later than sixty days after the board's appointment, submit, in writing, its findings and recommendations to the Healthcare Advocate, the health care collaborative and the health plan. If the impasse continues beyond twenty days from the date on which the board submitted its findings and recommendations, the Healthcare Advocate shall order a resolution to the negotiations based upon the findings of fact and recommendations submitted by the board.

(d) (1) A health plan shall be prohibited from refusing to negotiate in good faith with a health care collaborative. Whenever, in the judgment of the Healthcare Advocate, a health plan has refused to negotiate in good faith with a health care collaborative in violation of this subsection, or any regulation adopted or order issued pursuant to this section, at the request of the Healthcare Advocate, the Attorney General may bring an action in the superior court for the judicial district of New Britain for an order directing compliance with this subsection. The Healthcare Advocate shall have the discretion to observe such good faith negotiations between the health plan and the health care collaborative.

(2) Any health plan that violates the provisions of this subsection shall be subject to a civil penalty of not more than twenty-five thousand dollars, to be fixed by the court, for each day for each violation. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. Upon request of the Healthcare Advocate, the Attorney General shall institute a civil action in the superior court for the judicial district of New Britain to recover such penalty.

Sec. 5. (NEW) (Effective October 1, 2014) (a) Any agreement negotiated pursuant to sections 1 to 11, inclusive, of this act between a health care collaborative and a health plan shall be submitted to the
Healthcare Advocate for an examination of its terms to determine whether such agreement shall be approved or rejected, in accordance with subsection (b) of this section.

(b) Not later than sixty days after submission of the agreement, the Healthcare Advocate shall provide a tentative decision to approve or reject the agreement. The Healthcare Advocate shall provide such decision after issuing public notice and providing a thirty-day opportunity for public comment regarding such opinion. The Healthcare Advocate's tentative decision shall be accompanied by a written opinion expressly considering the agreement's expected effects on the reasonableness of fees and the quality and price of health care practitioner services. No agreement shall become final and effective unless and until, following the thirty-day comment period, the Healthcare Advocate approves the agreement and issues a certificate of public advantage on the basis that the agreement fosters reasonably priced, quality practitioner services. The Healthcare Advocate may collect information from any person to assist in evaluating the impact of the proposed agreement on the health care marketplace.

(c) In determining the reasonableness of fees and quality of services, the Healthcare Advocate shall consider whether the health care collaborative's proposed fees:

1. Are consistent with fees in similar practitioner communities;
2. Ensure reasonable access to practitioner care;
3. Improve the health care collaborative's ability to render services efficiently;
4. Provide for the financial stability of the health care collaborative; and
5. Encourage innovative approaches to medical care that may improve patient outcomes and lower health care costs.
Sec. 6. (NEW) (Effective October 1, 2014) The Healthcare Advocate shall actively monitor agreements approved under sections 1 to 11, inclusive, of this act to ensure that a health care collaborative's performance under the agreement remains in compliance with the conditions of approval. Upon request and at least annually, each health plan and health care collaborative operating under a certificate of public advantage shall submit to the Healthcare Advocate a written report, in the form and manner prescribed by the Healthcare Advocate, regarding agreement compliance. The Healthcare Advocate may revoke a certificate of public advantage upon a finding that performance pursuant to the agreement is not in substantial compliance with the terms of the application or the conditions of approval and issuance of a certificate of public advantage.

Sec. 7. (NEW) (Effective October 1, 2014) Any person aggrieved by a final decision of the Healthcare Advocate under sections 1 to 11, inclusive, of this act may appeal the decision to the Superior Court in accordance with section 4-183 of the general statutes.

Sec. 8. (NEW) (Effective October 1, 2014) Any applications, reports, records, documents or other information obtained by the Healthcare Advocate pursuant to sections 1 to 11, inclusive, of this act shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes.

Sec. 9. (NEW) (Effective October 1, 2014) (a) The Healthcare Advocate shall charge each prospective health care collaborative an administrative fee of one thousand dollars for determining whether such prospective health care collaborative is authorized to engage in negotiations with a health plan within the authority granted under sections 1 to 11, inclusive, of this act.

(b) The Healthcare Advocate shall set fees in amounts deemed reasonable and necessary for determining whether the agreement between the prospective health care collaborative and a health plan shall be approved or disapproved.
Sec. 10. (NEW) (Effective October 1, 2014) On or before October 1, 2015, and annually thereafter, the Healthcare Advocate shall submit, in accordance with the provisions of section 11-4a of the general statutes, to the Governor and the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees an annual report on the operations and activities of the Healthcare Advocate pursuant to sections 1 to 11, inclusive, of this act.

Sec. 11. (NEW) (Effective October 1, 2014) If any provision of this section and sections 1 to 10, inclusive, of this act, or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, the invalidity shall not affect any other provisions or applications of this section and sections 1 to 10, inclusive, of this act, that can be given effect without the invalid provision or application, and to this end such provisions are severable. The provisions of this section and sections 1 to 10, inclusive, of this act shall be liberally construed to effect the purposes thereof.

Sec. 12. (NEW) (Effective October 1, 2014) The Healthcare Advocate shall adopt rules and regulations, pursuant to chapter 54 of the general statutes, establishing application and review procedures, methods for determining whether to issue a certificate of public advantage and any other procedures or standards necessary for the administration of sections 1 to 11, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:

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Statement of Legislative Commissioners:
In section 3(a)(1), clauses (i) and (ii) were inserted in subparagraph (C), "(D)" was deleted, and subparagraphs (E) to (G), inclusive, were redesignated as subparagraphs (D) to (F), inclusive, for clarity and internal consistency.

LAB Joint Favorable Subst. -LCO