

Access Health CT Testimony in Support of
5444
RAISED BILL ~~5440~~: AN ACT CONCERNING THE EXECUTION OF SURETY BONDS
BY THE CONNECTICUT HEALTH INSURANCE EXCHANGE

Insurance and Real Estate Committee

Thursday, March 3, 2016

1:00 PM in Room 2D of the Legislative Office Building

Good morning Chairmen Crisco and Megna, Ranking Members Kelly and Sampson and distinguished members of the Insurance and Real Estate Committee. My name is Susan Rich-Bye; I am the Director of Legal and Policy for Access Health CT.

Thank you for the opportunity to provide testimony today regarding **RAISED BILL 5440: AN ACT CONCERNING THE EXECUTION OF SURETY BONDS BY THE CONNECTICUT HEALTH INSURANCE EXCHANGE**. Access Health CT strongly supports this bill.

The Connecticut Health Insurance Exchange, dba Access Health CT ("Access Health CT"), was created by the Legislature for the purpose of implementing the Affordable Care Act in the State of Connecticut. Public Act 11-53, Access Health CT's enabling legislation, codified at Conn. Gen. Stat. 38a-1080 through 1092, vests the powers of Access Health CT in a fourteen (14) member Board of Directors, six (6) of whom are ex-

officio officers of the State of Connecticut, and eight (8) of whom are appointed members.

Connecticut Gen. Stat. 38a-1081 (c) (8) currently requires that

Each board member shall execute a surety bond in the penal sum of fifty thousand dollars, or, in lieu thereof, the chairperson of the board shall execute a blanket position bond covering each board member, the chief executive officer and the employees of the exchange, each surety bond to be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company authorized to transact business in this state as surety and to be approved by the Attorney General and filed in the office of the Secretary of the State. The cost of each such bond shall be paid by the exchange.

When Access Health CT first tried to secure a blanket position bond to cover its board members, CEO and employees in compliance with 38a-1081 (c) (8), it was advised that such a policy was not available in the market today but that it could satisfy its statutory obligations through purchase of a crime policy with an endorsement for the Faithful Performance of Duty.

Access Health CT secured this coverage starting on 3/22/2012 and has maintained it continually through the present time. Access Health CT's current crime policy is underwritten by the Travelers Casualty and Surety Company; a surety company authorized to transact business in Connecticut and includes a specific endorsement for Faithful Performance of Duty with a coverage limit of \$3 million. Under the Crime Policy, employees are defined to include members of the board of directors.

Access Health CT believes in principle that the policy and endorsement meet the statutory requirements of Conn. Gen. Stat. 38a-1081(c) (8). Access Health CT also believes that such a policy offers additional benefits not available with a blanket position bond. While a bond will pay out on a covered claim, for the premium paid, the bondholder is required to pay the surety company for the loss up to the bond limit unless so precluded by financial inability to make payment. In contrast, an insurance policy, for the premium paid, requires the insurer to pay the claim above the deductible and will not require the insured to pay anything to the insurer to the policy limit. Considering this and the \$3 million dollar annual limit for the Faithful Performance of Duty Endorsement, the crime policy is more beneficial to Access Health CT and the individual board members.

In addition, Access Health CT's crime policy has far more coverages than a typical public official performance bond. For example, the crime policy has additional coverages (e.g. property theft, ERISA liability, computer crime, forgery, identity fraud,

etc.) which enhance the overall risk protections to the insured(s) beyond the typical fidelity coverage of a bond.

The alternative of individual bonds is not considered viable because these bonds require complicated underwriting of individuals for bond applications and administration. This could act as a deterrent to potential appointees from agreeing to serve on the board of Access Health CT.

Raised Bill 5444 would allow Access Health CT to purchase any of the listed products to provide the required coverage for each board member, as well as the chief executive officer and the employees of Access Health CT. Access Health CT would be able to meet its statutory obligations by procuring either a surety bond in the penal sum of fifty thousand dollars for each board member, a blanket position bond or an equivalent insurance product covering all necessary parties as mentioned above. Each surety bond or equivalent insurance product will be conditioned upon the faithful performance of the duties of the office or offices covered, to be executed by a surety company or issued by an insurance company licensed to transact business in the State of Connecticut. Any of these instruments will provide the required protection as originally intended by Conn. Gen. Stat. 38a-1081 (c) (8).

Access Health CT respectfully requests that the members of the Insurance and Real Estate Committee support Raised Bill 5444.