



Office of the
Healthcare
Advocate
STATE OF CONNECTICUT

**Testimony of the Office of the Healthcare Advocate
Before the Insurance and Real Estate Committee
Re SB 433
March 15, 2016**

Good afternoon, Senator Crisco, Representative Megna, Senator Kelly, Representative Sampson, and members of the Insurance and Real Estate Committee. For the record, the Office of the Healthcare Advocate (“OHA”) is an independent state agency with a three-fold mission: assuring consumers have access to medically necessary healthcare; educating consumers about their rights and responsibilities under health plans; and, informing you of problems consumers are facing in accessing care and proposing solutions to those problems.

I appreciate the opportunity to comment on SB 433, AAC Standards and Requirements for Health Carriers’ Provider Networks and Contracts Between Health Carriers and Participating Providers. SB 433 incorporates many of the provisions of the Health Benefit Plan Network Access and Adequacy Model Act (Model Act) published by the National Association of Insurance Commissioners, and has been adopted either in part or in whole by at least 22 other states.

SB 433 promotes transparency in the standards used to measure the creation and maintenance of provider networks by health carriers and to ensure that these networks are adequate and accessible to consumers. Network adequacy means that each health plan has a network of healthcare providers available to plan members that is appropriate in

provider type and distance for the members to receive the benefits they are entitled to under the plan. This is a crucial element in consumers' ability to access necessary health care services without exposing them to unreasonable out-of-pocket costs. Currently, health carriers are required to obtain accreditation from either the National Committee for Quality Assurance (NCQA) or URAC, which promulgate standard criteria for network adequacy. However, these criteria are proprietary, and therefore unavailable to consumers or other stakeholders for review.

SB 433 represents an important step towards much needed transparency in healthcare systems, expanding on the NCQA or URAC criteria by defining a broad set of standards that health carriers must comply with when building and maintaining their provider networks. However, despite the comprehensive detail that the NAIC included in the Model Act, not all of the Model's language translates to Connecticut's unique environment, and some of the language may need modification to provide effective and unambiguous standards as intended.

For example, in Section 1, at lines 94-116, SB 433 affirms the Insurance Commissioner's authority to assess a health carrier's network. It goes on to incorporate a detailed list of elements that are vital to a comprehensive evaluation of a plan's network. However, the inclusion of these elements, as well as others the Commissioner deems appropriate and necessary, is permissive rather than required. In the interest of transparency and consistency that SB 433 promotes, OHA believes that these elements should be required factors when measuring the adequacy of a provider network. This will promote greater transparency and consistency, both for consumers as well as health carriers, in the assessment of network adequacy.

OHA also has concerns about the language at lines 186-193, which appears to require providers participating in any plan offered by a health carrier, to participate in all networks and plans offered by that health carrier. It also appears to impose limitations on providers' discretion concerning their Medicaid panels. Given the ambiguity and overly broad scope of this section, OHA suggests that this language be revised to more clearly state its intent,

or be removed pending a more comprehensive examination of the issue being addressed by this language, so a productive discussion concerning remedy.

In Section 1, at lines 298-305, SB 433 defines an “active course of treatment” in the context of continuity of care. However, at lines 321-324, this definition appears to be modified to limit continuity of care to treatment received “on a regular basis”, a term which is undefined, resulting in ambiguity as to whether the continuity of care provisions will apply to certain consumers whose providers leave their network during a course of treatment.

The definition of “serious acute condition” at lines 309-312 is also somewhat unclear. The term acute is generally understood to represent a condition of sudden onset and short duration, but the definition contemplates the inclusion of ongoing, long term, treatments, such as chemotherapy. For clarity, OHA suggests that this language be revised to more accurately reflect the type and nature of the services covered.

At lines 374-387, SB 433 also defines what would constitute a “material change” in a provider’s network, and would require a health carrier to notify the Commissioner of the change. While well intentioned, OHA believes that the threshold of a 25% change is too high to effectively provide the Commissioner with adequate notice of changes that could significantly impact consumer access to care.

It is important to note that while SB 433 represents a significant improvement in transparency of provider networks, it fails to incorporate the specific elements for consideration of behavioral health and substance use provider network adequacy, as set forth in the Mental Health Parity and Addiction Equity Act. The Model Act’s emphasis on creating a consistent framework for all states to incorporate likely made it difficult to specifically incorporate these elements, and SB 433’s reliance on this model language, and subsequent silence on this distinct, but important, segment of the state’s insured, likely represents an unintended oversight.

As Connecticut’s healthcare market continues to evolve, consumers of health care and

health care insurance need clearly defined network of health care providers to meet their needs. SB 433 will provide consumers with the information and access that they need without imposing significant new responsibilities on insurers or providers.

Thank you very much for your commitment to this timely and important issue. If you have any questions concerning my testimony, please feel free to contact me at demian.fontanella@ct.gov.