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**Testimony in Support of
House Bill 5366: An Act Concerning the Cost of Prescription Drugs**

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Universal Health Care Foundation of Connecticut thanks the Insurance and Real Estate Committee for the opportunity to submit testimony in support of House Bill 5366: An Act Concerning the Cost of Prescription Drugs. The bill includes consumer protections as well as provisions that directly address the high and rising cost of medications.

Two provisions of the bill attempt to reverse some of the harmful impacts of insurance designs on people's ability to obtain necessary treatment.

Section 1 provides financial protection by proposing to cap out-of-pocket payments for prescriptions at \$250 per insured per month. Many states are beginning to push back against the harmful impact of High Deductible Health Plans by imposing some form of out of pocket limits for prescription drugs. And just last week, a hearing was held on SB 1 and HB 5175, An Act Concerning Diabetes and High Deductible Health Plans, which proposes an out-of-pocket monthly limit of \$100 for diabetes prescription drugs and supplies. These bills appear to have strong bipartisan support.

As several experts testified at the High Deductible Health Plan Task Force, high out-of-pocket costs keep people from accessing care they needⁱ. A survey conducted by Altarum's Healthcare Value Hub found that 88 percent of Connecticut residents who take prescription drugs regularly are worried they won't be able to afford their medicationsⁱⁱ. Worse, 20 percent said they either did not fill a prescription, cut pills in half, or skipped a dose due to concerns about costⁱⁱⁱ.

The concern regarding limiting out-of-pocket costs is that insurers might respond raising premiums instead. However, studies conducted by the Leukemia and Lymphoma Society point to the fact that well-designed caps should have very little impact on premiums^{iv}. That is because most people who rely on high-priced prescription drugs eventually meet their out-of-pocket maximum for the year. This bill proposes to change WHEN they meet that limit – helping to spread the financial burden over the entire year, rather than to have these costs hit all at once at the beginning of the year.

Legislators may want to look at the bill recently in New Jersey, A2431. That bill sets different caps for bronze plans than for the other metal tiers and also requires that a policy with prescription drug out-of-pocket limits be offered as one option by each carrier at each metal level^v. The final bill passed unanimously in both legislative houses and was signed by the Governor this past January.

Section 11 of the bill stops detrimental changes to a private health insurer's prescription drug formulary during a plan year such as:

- Moving a covered drug to a higher cost-sharing tier;
- Removing a drug entirely from the prescription drug formulary (unless the drug has been found to be unsafe)

The same language can be found in HB 5361, An Act Limiting Changes to Prescription Drug Formularies and Lists of Covered Drugs. We have submitted testimony separately in support of that bill. Last year, a similar bill, HB 6096, passed the house with strong bipartisan support with 122 representatives voting in favor and only 22 voting against. This should be the year that this legislation finally makes it over the finish line – either as part of this bill or by passing HB 5361 as a stand-alone bill.

HB 5366 contains several other key provisions that we support:

Section 10 establishes a Critical Drug Shortage Review Board composed of key commissioners and the Executive Director of the Office of Health Strategy. The board would be able to declare a “prescription drug pricing emergency” and request that the federal government step in to impose generic competition, in order to make a crucial drug available at an affordable price. The state of Louisiana paved the way for this important concept when it studied ways to obtain more affordable access to Hepatitis C medications^{vi}. We are glad to see Connecticut considering authorizing this approach through legislation. We wonder whether it would make sense to have the State Comptroller participate on the board, too, as perhaps the state employee health plan could also benefit from this bill.

Section 9 attempts to curb the practice of “pay for delay”, whereby pharmaceutical manufacturers pay generic drug makers in order to stop or slow down the development of generic competition. The bill proposes to cut the price of any drugs where such agreements have occurred. Federal legislation to address this problem has stalled in Congress, despite widespread bipartisan support. So, states are stepping into the breach. In October, California became the first state in the nation to pass pay-for-delay legislation. That bill, AB 824, takes a different approach, by banning the practice completely^{vii} and is now being litigated^{viii}.

A good part of HB 5366 is devoted to establishing a program to import prescription drugs from Canada, as permitted under federal law. Several other states, including Vermont, Florida, Maine and Colorado have already passed similar legislation^{ix}. The aim of this legislation is to allow residents of the United States to benefit from the much lower drug prices that the Canadian government has negotiated. While this goal is laudable, it is not clear that this legislation would have much more than symbolic impact. That is because Canada does not have the ability to import drugs to meet the needs of the U.S. market in addition to meeting the needs of its own residents^x.

Finally, we support Section 2, which, according to the bill’s statement of purpose, “caps the cost of generic drugs” to get at the actual underlying cost of medications.

Thank you for the efforts undertaken in HB 5366 to provide much needed relief to Connecticut residents from the outrageous and unaffordable cost of prescription drugs.

Universal Health Care Foundation of Connecticut’s mission is to serve as a catalyst that engages residents and communities in shaping a democratic health system that provides universal access to quality, affordable health care and promotes health in Connecticut. We believe that health care is a fundamental right and that our work is part of a broader movement for social and economic justice.

ⁱ <https://universalhealthct.org/the-high-deductible-health-plan-task-force-heard-from-experts-they-need-to-hear-from-you-too/>
<https://universalhealthct.org/keeping-the-needs-of-consumers-front-and-center-at-the-high-deductible-health-plan-task-force/>

ⁱⁱ *Connecticut Residents Worried About High Drug Costs – Express Bi partisan Support for a Range of Government Solutions: Data Brief No. 1*, April 2018, Altarum Healthcare Value Hub Consumer Health Experience State Survey, <http://33mos02k3jgi1zuad217yk0o-wpengine.netdna-ssl.com/wp-content/uploads/2018/10/Hub-Altarum-Data-Brief-No.-1-Prescription-Drug-Prices-in-Connecticut.pdf>

ⁱⁱⁱ *Ibid.*

^{iv} Leukemia and Lymphoma Society web site, Milliman reports on out-of-pocket caps, <https://www.lls.org/managing-your-cancer/finances-and-insurance-coverage/the-affordable-care-act/milliman-report>
^v https://www.njleg.state.nj.us/2018/Bills/A2500/2431_R1.HTM

^{vi} We have a cure for hepatitis C. But the neediest can’t afford it. Louisiana wants to change that., Vox, Joshua Sharfstein, Joy Lee and Rena Conti, September 27, 2017 <https://www.vox.com/science-and-health/2017/9/27/16350562/hepatitis-c-drug-prices-louisiana>

Louisiana’s Journey Toward Eliminating Hepatitis C, Health Affairs Blog, Rebekah Gee, April 1, 2019 <https://www.healthaffairs.org/doi/10.1377/hblog20190327.603623/full/>

^{vii} Pay for Delay Legislation Signed in California, Policy and Medicine, October 13, 2019, <https://www.policymed.com/2019/10/pay-for-delay-legislation-signed-in-california.html>

^{viii} California Reverse Payment Case Appealed by Generic Drug Group, Bloomberg Law, January 3, 2020 <https://news.bloomberglaw.com/pharma-and-life-sciences/california-reverse-payment-case-appealed-by-generic-drug-group>

^{ix} 10 FAQs on Prescription Drug Importation, Kaiser Family Foundation, Meredith Freed, Tricia Neuman and Juliette Cubanski, February 4, 2020 <https://www.kff.org/medicare/issue-brief/10-faqs-on-prescription-drug-importation/>

^x *Ibid.*