

Insurance and Real Estate Committee

HOUSE FAVORABLE REPORT

Bill No.: HB-5247

Title: AN ACT CONCERNING EXPLANATIONS OF BENEFITS.

Vote Date: 3/10/2020

Vote Action: Joint Favorable

PH Date: 2/27/2020

File No.:

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SPONSORS OF BILL:

Insurance and Real Estate Committee

REASONS FOR BILL:

This bill will health insurers that deliver, issue for delivery, renew, amend or continue certain health insurance policies in this state to issue explanations of benefits to consumers in certain circumstances, disclose information concerning explanations of benefits to consumers, and require that explanations of benefits be maintained as confidential in certain circumstances.

RESPONSE FROM ADMINISTRATION/AGENCY:

Kevin Lembo, State Comptroller, Office of the State Comptroller An Explanation of Benefit (EOB) is a statement sent by a health insurance company that provides an accounting of the medical treatment or service received, charges and coverage. HB 5247 allows for any individual insured under a policy to opt out of receiving an Explanation of Benefits or to have it sent directly to the patient instead of the policy holder, if they prefer to have their information kept confidential. Many times there is one person in a household who is afforded health insurance and this policy is then extended to members of their family. This lack of choice for the individuals covered by this plan should not be a hinderance to maintaining a sense of privacy. They should be able to maintain medical records separately from those of their policy holder.

Ted Doolittle, Healthcare Advocate, State of Connecticut This important bill corrects an unintended consequence of current law that exposes certain dependents to unnecessary, and sometimes embarrassing or even dangerous, disclosure of their private health information to other family member. Gave an example, if a child or spouse seeks therapy or medical treatment for physical and mental injuries at the hands of the primary subscriber, exposure of that information to the subscriber could lead to further physical and emotional

harm. In the alternative, the potential for such exposure could deter the dependent from seeking treatment in the first instance. This extremely vulnerable population should not be required to make such a Hobson's choice due to the risk that their insurance company might disclose sensitive treatment information to their abusers. HB 5247 addresses these unfortunate scenarios by putting the dependent in control of who can see and who cannot see sensitive health information reported on an EOB.

NATURE AND SOURCES OF SUPPORT:

Rep. Jillian Gilcrest, 18th District supports this bill for two primary reasons; it promotes transparency and it ensures privacy. Copays, coinsurance costs, and deductibles can be highly burdensome for individuals and families alike and transparency may protect people from surprise fees. HB 5247 mandates the clear and accessible explanation of any coverage exclusions including restrictions on the usage or quantity of that which is covered, protecting enrollees from unexpected out-of-pocket costs. Additionally, this bill requires the health insurance and healthcare providers to clearly state the exact amount of an expected copay or the percentage of coinsurance. Apart from transparency, this bill also protects privacy.

Suzi Craig, Chief Strategy Officer, Mental Health Connecticut supports this bill and ask that you help us continue the fight to help our young adults take control of their lives. If a young adult chooses to seek medical care without the knowledge of their parents, the policy holder (parents) will know. This bill would allow for suppression of an explanation of benefits, and thereby, putting the control – and confidentiality – into the hands of the person seeking treatment

The unfortunate reality that it's difficult to talk about mental health and substance use should not stop us from giving young adults the tools they need to make the decisions they need to make on their own time.

Universal Healthcare Foundation of CT the proposed bill allows enrollees of a health insurance plan to keep their Explanations of Benefits (EOBs) private, if they so choose, by rerouting the EOB to the enrollee directly (via mail or email). One note: please consider replacing the word "consumer" in the legislation to "enrollee" so that it is clear that each individual enrollee, not only the subscriber, would have the power to protect their privacy in medical care. This proposal would protect anyone who wants the information about their medical care private, for any reason. It would require insurers to act with some urgency, acting within 3 days of an email request, and 7 days within a mailed request, to suppress or reroute an enrollee's EOB. Everyone should feel safe and respected when seeking care via their private health insurance plan. EOB privacy is one critical aspect of this safety.

Kathy Flaherty, Executive Director CT Legal Rights Project Some people are deterred from seeking treatment because they are afraid of disclosure to others – sometimes even members of their own family. Although we may hope that all families are loving, caring, and free from abuse, that simply is not true. The additional privacy that would be afforded to a recipient of health care, by protecting the confidentiality of explanation of benefits for services rendered, would mean that people would not be afraid to access the health care they need. A young adult covered by their parents' health insurance may not want their parents to know that they have accessed mental health care; despite all our efforts at eradicating stigma, that fear of exposure is real. This raised bill would ensure that young adult could get the care they want and need.

Ashley Starr Frechette, MPH, Director of Health Professionals Outreach stated the way that Connecticut is currently allowing EOB's to be automatically generated and sent directly to the policy holder, not the patient, can put victims of domestic violence in further danger. This is especially important to point out because the act of seeking support from a health professional is important to ending the cycle of abuse. Passing HB 5247 would allow victims to choose a safe and appropriate method of receiving their EOB, without the fear that their abuser will get a copy.

Madeline Granato, Policy Director/Rachel Catanese, Policy Intern CT Women's Education and Legal Fund stated CWEALF serves thousands of Connecticut residents through our Legal Education program, which provides information, education, referrals, and bilingual advocacy to ensure that all individuals in our state have access to legal justice. The majority of CWEALF's clients are low-income women with at least one dependent, many of whom experience domestic or family violence. Lack of confidentiality is often a barrier to health care services, especially when an individual seeks services related to domestic violence. House Bill 5247 protects an individual's right to privacy, which will minimize the potential danger caused by the disclosure of these services - specifically for patients at risk of retaliation from an abusive partner or family member. Access to health care services is essential to healing and treatment for survivors of domestic violence and survivors' relationship with their health care providers is often built on the trust that the information shared is private. House Bill 5247 is critical to so many of our clients and survivors across the state to access the care that they need. Lack of confidentiality has negative ramifications for dependents whom, for many reasons, need their health care services to remain private.

Mary Greenwell testified that growing up I was extremely fortunate to have access to comprehensive health care and get medical treatment when I needed it. I was even more fortunate that there was never a time in which I needed to seek medical treatment without telling my family, or the policy holder of my insurance. If you pass House Bill 5247, people who face danger of sexual violence will have full access to confidential and comprehensive health care, allowing them to seek treatment if they have been hurt. By allowing and informing the patient of their ability to specify where the explanation of benefits is sent if any, people who are in dangerous or threatening situations with their insurance policy holder will be able to seek necessary treatment, without risking their lives to do so.

National Association of Social Workers feels release of health care information without the person's consent may make a person choose to delay or not seek needed care. HB 5247 is a simple and reasonable approach that puts the person receiving the care in the decision seat of how an EOB is issued regarding their care. This is as simple of a change as a subscriber notifying their insurance carrier that they have a new mailing address so that the insurer's written communications will be sent to the new address. HB 5247 requires the EOB to be sent in a fashion requested by the person who received the care. There is significant benefit to patients at no burden to insurers.

Kelly McConney Moore, Policy Counsel, American Civil Liberties Union of CT Explanations of benefits contain confidential health care information, including information about medical care that people seek and receive. This is often information that people want to keep private, so people who can consent to their own health care should have the option to protect the details of that health care. By allowing people to suppress their explanations of benefits or direct that insurance carriers send them to alternate addresses, rather than

directly to policyholders, people can maintain their health care privacy. Nearby Massachusetts enacted a similar law, signed by Republican Governor Charlie Baker, to protect patients' privacy by allowing patients to choose how and if their explanation of benefits is shared with another insurance policyholder. Connecticut can and should be the next state to protect patients.

Lucy Nolan, Director, CT Alliance to end Sexual Violence supports this legislation because it addresses a crucial barrier to accessing health care by those who need it by ensuring when multiple people are on the same insurance plan, confidential health care information is protected and not shared with anyone other than the patient. **assistance. Our goal is to give victims back their own agency and this would help.** Eight out of ten rapes are committed by someone know to the victim. The response from the victim may be years later requesting medical help to deal with the issue. We do not know what grooming, power, and control that person has on the victim, who may have found their voice. They do not want the policyholder to know. It should always be the victim's decision if, when, and to whom to disclose. It should never lie in the hands of an insurance company. Our advocates are very knowledgeable. They would be able to assist victims with the information to request the suppression of the EOB or to choose an alternative method of receiving it, perhaps through email, an alternative address, or phone number. This will not be a hardship and would become a regular part of our assistance.

Gretchen Raffa, MSW, Director of Public Policy at Planned Parenthood of Southern New England, Inc. is the largest provider of sexual and reproductive health care in Connecticut, serving over 68,000 patients annually at 16 health centers. Our Stamford and Hartford Health centers are NCQA certified patient-centered medical homes, offering primary care. As a health care provider and advocate, Planned Parenthood's top priority is ensuring that all individuals have access to the health care and information they need, including the full range of sexual and reproductive health services. Adolescents who are concerned about the confidentiality of their contraceptive care are unlikely to obtain it. Furthermore, a 2016 nationally representative study of Title X (federal family planning program) clients found that among those younger than 20 who had health insurance, just over half did not plan to use that coverage for their visit because of confidentiality concerns. For the many young people who do not feel they can talk with their parents or guardians—often out of fear that they will face some type of punishment or abuse for being sexually active— confidentiality protections are essential. This reality can be particularly pronounced among marginalized adolescents, such as those who are experiencing homelessness, identify as LGBTQ or are in the foster care system. We need to ensure that people have access to the health care they need and those who have insurance should feel safe and comfortable using it. H.B. 5247 gives young adults the opportunity to access vital healthcare in a confidential manner and is consistent with state law. .

Rahul Shah, MD CT Children's Medical Center feels by allowing patients to state how they would like to receive such statements, including via email, they may be assured that these documents may not fall into the hands of someone else. This proposal will improve patient safety by allowing them to state where they would like their explanation of benefits to be sent. This issue has received significant attention among some medical professionals, patient advocates and legislators, and there is ongoing discussion of optimal strategies to protect patient privacy [3, 4]. In the proposed legislation, patients must initiate requests on changing how their explanation of benefits would be mailed. The novel solutions to this complex problem are being established, this bill would be a significant step f

forward in maintaining patient privacy. Please protect your constituents and allow medical professionals to offer them their best care by supporting H.B. No 5247, specifically its provisions that limit the distribution of explanation of benefits to individuals other than those seeking care.

Ben Shaiken, Manager of Advocacy & Public Policy, The Alliance stated this bill would require that enrollees who are otherwise legally authorized to consent to their own health care be allowed to request that certain information not be disclosed to the primary beneficiary of their health insurance plan on an EOB. This bill would allow, for example: • A young person remaining on their parents' insurance until the age of 26 the ability not to disclose to their parents seeking treatment for an opioid addiction from a community nonprofit; • A person planning to separate or divorce to seek counseling from a Marriage and Family Therapist at a community nonprofit without disclosing that treatment to their spouse.

Jay E. Sicklick, Deputy Director, Center for Children's Advocacy stated allowing for confidential treatment is in line with the spirit and purpose of HIPAA. Under HIPAA, covered healthcare entities may not release private healthcare information without consent. Why would this principle not apply for individuals whose privacy might be compromised by the issuance of an EOB? Allowing patients the right to decide who receives their EOB is consistent with the state's half-century long history of protecting healthcare information. Our goal should be to encourage Connecticut residents to seek healthcare knowing that their healthcare information is protected. H.B. 5247 gives young adults the opportunity to access vital healthcare in a confidential manner. The state is facing an epidemic of substance abuse and opioid trauma that can be partially addressed by encouraging youth and young adults to access confidential care and treatment. provides another method of healthcare access for those youth and young adults who are most at-risk, and who seek mental health treatment and/or substance abuse interventions in a legally supported and confidentially protection fashion. The removal of the "EOB obstacle" for this vulnerable population will encourage young patients to seek critically important, if not life-saving care without stigma or judgment.

Margaret Watt, MPH, MA, Co-Director, The Hub feels this bill provides important protections to the behavioral health community. We commonly hear of struggles in families where one covered adult has a behavioral health disorder and the other adult (naturally) wants to know what treatment is being provided through their insurance. However, HIPAA privacy requirements are clear that a healthcare provider can only discuss protected medical information with another family member when there is prior consent. I see the proposed legislation as aligning with this HIPAA requirement because it allows the covered adult to determine whether and to whom Explanations of Benefits are provided. This is an important protection in families where one individual needs some type of treatment (e.g., trauma, domestic violence, substance abuse, gender reassignment) and does not want another family member to know it, because fear that others will find out can sometimes prevent the person from getting needed help.

Deborah Wissner As a parent of two children, while it is ideal that our children would come to us if they are experiencing a physical or mental condition that requires professional attention from medical personnel such as doctors or therapists, they may feel embarrassed or nervous about approaching us, the parents, to get the care they need. Changing the requirements for health insurers making the explanation of benefits confidential under certain

circumstances, may help our children seek the medical treatment they need and may not seek without this change.

Susan L. Yolen stated Raised Bill 5247 is similar to legislation passed in recent years in a number of states, from California to Massachusetts. These state laws have already recognized that patients deserve to trust that they will be guaranteed privacy and indeed, safety, before they enter a provider's office to discuss a sensitive health care need. Please support An Act Concerning Explanations of Benefits, and insure that Connecticut residents and families with coverage feel confident enough to use it.

NATURE AND SOURCES OF OPPOSITION:

CT Association of Health Plans feels what is contained in an explanation of benefits is set forth under federal guidelines from Health Insurance Portability and Accountability Act (HIPAA) which is a US law designed to provide privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers. We want to ensure that this legislation, if passed, is in harmony with HIPAA to safeguard the regulated insurers in Connecticut from being out of compliance. In addition, from a confidentiality perspective, the HIPAA Privacy Rule already gives members the right to request confidential communications (i.e., receiving communications of PHI by an alternative means or at an alternative location). This includes member requests that we send the member's EOB to an alternative address or by an alternative means (e.g., by fax, by email). However, it is important to note that health plans are only required to accommodate such requests if the member says disclosure of his/her PHI could endanger the member. In addition, it's important to note that this legislation appears to be requiring EOBs issued in CT to be administered differently than in the rest of the country which will undoubtedly increase administrative costs.

Joseph Wagner, MD CT Urology Society seeks to diminish transparency and to permit insurers loopholes to provide (1) No Explanation of Benefits (EOB) or (2) Minimal Explanation of Benefits. It further calls into question the rights of providers of care to receive Explanations of Benefits. If passed will allow insurers opportunities to NOT provide a thorough and clear explanation of payments, and to confuse rather than clarify patient options. Patients need more information regarding their healthcare expenditures to help them understand the nature of the medical services received, the discrepancies between provider charges and payer payments, and better accountability and transparency.

Reported by: Diane Kubeck

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