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Representative Patricia Dillon
Testimony in Support of SB 1008
Insurance Committee
March 9, 2021

Honorable Chairs, ranking members, and members of the Insurance and Real Estate Committee.

I am Representative Pat Dillon from the 92nd district in New Haven, here today to testify in support of Raised S.B. No. 1008, which prohibits some insurers, providers, and other entities from denying coverage for an otherwise covered benefit if such denial is exclusively based on an insured's blood oxygen level as measured by a pulse oximeter. It also directs the Insurance Department to issue regulations to ensure that providers and consumers are informed that a pulse oximeter is more likely to produce an inaccurate blood oxygen level reading for an insured who is an individual of color as opposed to an insured who is a white individual.

As the COVID 19 pandemic has progressed in the United States, the data has demonstrated that people of color are at higher risk of debility and death. It is therefore incumbent on us as policy makers to identify possible sources of bias in our health care system and social arrangements and correct them.

The pulse oximeter is a small, clip-like device that attaches to a body part, most commonly put on a finger. To measure oxygen in your blood, light from a pulse oximeter must pass through your skin. Because it is noninvasive and easy to obtain, it has been, for many, the go to device for a quick estimate of severity of illness in aftercare and even in clinical settings. But as the FDA has recently conceded, there are limits to its accuracy, and because blood oxygen levels are used by Medicare to determine coverage for home oxygen, for example - the cutoff has been 90 - and because insurers often track Medicare policy, this merits our attention.

Since 2005, studies have pointed to possible bias. Then in December a research note in the New England Journal of Medicine https://www.nejm.org/doi/10.1056/NEJMc2029240?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossref.org&rfr_dat=cr_pub++0pubmed%22%20\l%20%22article_citing_articles concluded "in two large cohorts, Black patients had nearly three times the frequency of occult hypoxemia that was not detected by pulse oximetry as White patients. Given the widespread use of pulse oximetry for medical decision making, these findings have some major implications, especially during the current coronavirus disease 2019 (Covid-19) pandemic. "

Two weeks ago the FDA issued new guidance https://www.fda.gov/medical-devices/safety-communications/pulse-oximeter-accuracy-and-limitations-fda-safety-communication on the accuracy and safety of the devices. "The SpO2 reading should always be considered an estimate of oxygen saturation. For example, if an FDA-cleared pulse oximeter reads 90%, then the true oxygen saturation in the blood is generally between 86-94%."

As state policy makers, our regulation of devices is limited: that is the role of the FDA. Even if the FDA were to order new post market studies that included diverse subjects, the easy availability of pulse oxys means that the market is in effect unregulated: non-FDA approved devices are easily obtained.

The most important remedy we can apply as state policymakers, I would argue, is to prevent denial of care based solely on a reading from an over the counter device, and public information. We don't need to scare people. These devices can be very useful and provided comfort to my own family during my father in law's illness. But we should not deny care inappropriately, and we should make sure the public has the information they need to make decisions.

I'll be happy to answer questions. Thank you for your consideration.