Testimony of Ted Doolittle  
Office of the Healthcare Advocate  
Before the Insurance and Real Estate Committee  
Re SB 1041  
March 18, 2021

Good afternoon, Senator Lesser, Representative Wood, Senator Hwang, Representative Pavalock-D’Amato, and members of the Insurance and Real Estate Committee. For the record, I am Ted Doolittle, Healthcare Advocate for the State of Connecticut. The Office of the Healthcare Advocate ("OHA") is an independent state agency with a consumer-focused mission: assuring consumers have access to medically necessary healthcare; educating consumers about their rights and responsibilities under health plans; assisting consumers in disputes with their health insurance carriers; and informing legislators and regulators regarding problems that consumers are facing in accessing care, and proposing solutions to those problems.

I appreciate the opportunity to submit comment regarding SB 1041, An Act Concerning Health Care Sharing Plans And Health Care Sharing Ministries. As currently drafted, OHA opposes this bill. SB 1041 purports to offer consumer protections to individuals who may be exploring coverage of their health care expenses through a health care sharing plan (HCSP) or health care sharing ministry (HCSMs), rather than purchasing traditional health insurance. Specifically, the bill restricts the ability of consumers to engage the assistance of a broker or other insurance professional, who would be qualified to educate the consumer regarding the risks involved with selecting an HCSP or HCSM over a health insurance policy. As written, however, SB 1041 appears to place no restrictions on the ability of HCSPs or HCSMs to enroll consumers who reach out directly with an interest in participating.
While OHA appreciates the intent of this bill, in limiting exposure of Connecticut residents to HCSPs and HCSMs, the bill may end up causing more harm than good for those who set out on their own, unassisted by expert advice, in search of a low cost health insurance solution. In recent years, OHA has received numerous inquiries and complaints from Connecticut residents who are contemplating enrollment in an HCSM, or who previously enrolled seeking to lower up-front premium costs, without understanding the substantial risks associated with such arrangements. Some of those consumers were unaware prior to contacting OHA that HCSMs are not insurance; not regulated; and not required to cover any medical expenses at all, such as preexisting conditions, preventive care, hospitalization, etc. Many of those consumers unfortunately had to learn the hard way that their enrollment in an HCSM did not protect them at all from unexpected medical expenses.

These complaints have underscored the need for further scrutiny and regulation of HCSMs. It is estimated that over 5,000 residents of Connecticut currently participate in an HCSM, and OHA believes that HCSMs are seeking to further penetrate the state’s health care coverage market. Without proper consumer education about the risks associated with these arrangements, more consumers will be harmed by the haphazard and discriminatory manner in which HCSMs pay for members’ health care expenses.

Rather than limiting the scope of SB 1041 to the regulation of health insurance brokers, OHA would prefer to see a bill that regulates HCSMs themselves. States have the authority to regulate HCSMs if they choose. However, under current Connecticut law, HCSMs are not characterized as insurers nor are they regulated by the Insurance Department. Accordingly, HCSMs in Connecticut are not presently required to comply with insurance rules that apply to the health care insurers with which they compete. As noted above, HCSMs are not presently required to provide the protections that are available under the Patient Protection and Affordable Care Act (ACA). Thus, HCSMs that participate in Connecticut are free to exclude individuals from participating in the plan altogether, or they may impose preexisting condition exclusions and exclusions from coverage of essential health benefits, or establish annual and lifetime caps on benefits – all of which are prohibited under the ACA. In fact, some HCSMs have asserted that because they do not provide “insurance,” they have no contractual obligation to pay any claims whatsoever!
SB 1041 would better serve Connecticut consumers by imposing regulations on HCSMs that operate in Connecticut, such as a requirement that HCSMs afford their members the same critical protections enjoyed by members of traditional insurance plans, including preexisting condition coverage and coverage of essential health benefits. With these additional consumer protections in place, Connecticut consumers will have much reduced exposure to the arbitrary and unregulated claim decisions imposed by HCSMs.

OHA is concerned that the bill's attempt to define HCSMs, without imposing any regulations on HCSMs, would have the opposite effect. Specifically, SB 1041 deviates from the federal definition of HCSM, in essence, by granting an entity the status of HCSM so long as it calls itself one. This definition stands in stark contrast with far more restrictive federal definition, which identifies an HCSM as an organization:

a) that is exempt from taxation under the federal tax code,
b) members of which share a common set of ethical or religious beliefs and share medical expenses among members in accordance with those beliefs,
c) members of which retain membership even after they develop a medical condition,
d) which has been in existence since December 31, 1999, and whose members have shared medical expenses continuously without interruption since that date, and
e) which conducts an annual independent audit that is made available to the public upon request.

In deviating from this much narrower definition of HCSM, SB 1041 expands the potential for entities that do not meet the federal definition to nonetheless operate as HCSMs in Connecticut without affording any protection to consumers who enroll.

In similar fashion, SB 1041 broadly defines an HCSP as any formal or loose affiliation of individuals who pool together resources for their collective payment of health care expenses. Using this definition, the bill rightfully prohibits the selling, negotiation or administration of an HCSP for a fee. However, the bill falls short of banning such arrangements altogether, thereby appearing to establish and sanctify such arrangements when they do not involve fees for their sale or administration. OHA is therefore concerned that SB 1041 may inadvertently create a whole new category of risky health care coverage arrangements that did not previously exist.
For all of these reasons, OHA would encourage this committee to give further consideration of this bill, but only if the language is substantially revised to address all of the concerns identified herein. As written, however, OHA cannot support this bill, as it appears to fall far short of what is needed to protect consumers from HCSMs, and in fact may ultimately cause more harm than good.

Thank you very much for your consideration of this testimony on this very important topic. If you have any questions concerning our position on this issue, please feel free to contact me at Ted.Doolittle@ct.gov.