

Insurance and Real Estate Committee JOINT FAVORABLE REPORT

Bill No.: SB-416
AN ACT PROMOTING COMPETITION IN CONTRACTS BETWEEN HEALTH
Title: CARRIERS AND HEALTH CARE PROVIDERS.
Vote Date: 3/22/2022
Vote Action: Joint Favorable
PH Date: 3/17/2022
File No.: 362

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SPONSORS OF BILL:

Insurance and Real Estate Committee

REASONS FOR BILL:

Healthcare markets are increasingly consolidated and less competitive in the state which deprives residents of critical medical treatments in their local hospitals. This has resulted in driving up healthcare costs and premiums. This bill is necessary because it helps to combat this issue by prohibiting health carriers, health care providers, health plan administrators, or their agents from including in health care contracts (1) anti-steering, anti-tiering, and all-or-nothing clauses or (2) any other anticompetitive clause the insurance commissioner adopts in accordance with the Uniform Administrative Procedure Act

RESPONSE FROM ADMINISTRATION/AGENCY:

Connecticut Insurance Department, while supporting the intention of the bill, is concerned that it is not the appropriate agency to regulate these contracts. The Connecticut Insurance Department regulates insurance companies and their associated agents. The Department does not employ medical experts, or experts in provider contracting or licensing. If this bill were to pass in its present form, the Department would need a significant investment of resources to hire experts in provider contracting, provider licensing, and medical experts to carry out the goals of this bill. Additional legal and Market Conduct staff will also be necessary concerning the enforcement of any new contractual requirements between carriers and providers.

Ted Doolittle, Healthcare Advocate, Office of the Healthcare Advocate believes this bill is an important step in the direction of restraining the market power of these health care systems. He notes that this legislation was based on model legislation of the NASHP but does not align

with all the provisions of that model legislation. In particular, the definition of “provider” as written is broad enough to capture small provider practices which, rather than driving up health care prices through market power, tend to be at risk of being swallowed up by the very health systems which are using their market power to drive prices. This language should be clarified to capture the large providers and health systems without imposing these prohibitions on small providers and practices. The model bill contemplates a numeric limit of eight practitioners in a small practice. Second, the model bill contemplates enforcement of these prohibitions by the state Attorney General, the Commissioner of Insurance, and a private party. It would be beneficial to include a section aligning this bill with the enforcement provisions in the model bill. With these amendments, he believes that this bill would truly help relieve Connecticut consumers and employers from the burden of high health care prices.

Victoria Veltri, Executive Director, Office of Health Strategy notes that, as currently written, SB 416 does not align with the full model legislation from NASHP that ensures certain protections. OHS highlights the differences in their full testimony.

Martin M. Looney, Senator & President Pro Tempore, Connecticut State Senate seeks to address some of the effects of healthcare consolidation. SB 416 would prevent certain anticompetitive terms in hospital contracts with insurers such as "all of nothing clauses" which require that insurers must either have all the hospitals in a health system in network or none. The bill also addresses tiering and steering. He urges you to include language that makes it clear that tiered networks must comply with network adequacy , essential health benefits and all state and federal mandates.

Susan M. Johnson, Representative, House of Representatives is in full **support** of SB 416. She explains that over the last several years Windham Community Memorial Hospital (WCMH), a hospital in her district, has become an example of why Connecticut must more equitably regulate access to hospital services by carefully considering the needs of the population the hospital serves, the types of services the hospital has historically provided, and the advances in medical and technology that should improve treatment. In 2008, Hartford Healthcare (HHC) took control of WCMH, and by 2015, HHC decided to eliminate the Intensive Care Unit (ICU) and create a more limited Progressive Care Unit (PCU) which was not fully operational on a 24/7 basis. The unfortunate circumstance that has followed HHC’s elimination of the ICU at WCMH is that now the essential services of maternity and delivery services have also been withdrawn from the Windham area by HHC without even seeking the timely approval of the OHS. Additionally, there is no highway out of the Windham area so quick ambulance transportation services are not available and helicopter services are not available in bad weather.

NATURE AND SOURCES OF SUPPORT:

Ellen Andrews, Executive Director, CT Health Policy Project urges you to **support** SB 416, because Connecticut’s healthcare markets are increasingly consolidated and less competitive, driving up prices and premiums. This bill can level the playing field, support competition, lowering premiums and overall healthcare costs.

Linda Bronstein says other states have implemented legislation that prohibits anti-competitive provisions in health system contracts, and health insurance costs in those states are no

longer out of control. Connecticut needs to take action to lower health care costs and insurance premiums, and asks you to vote favorably on SB 416.

Suzanne Cayer says Insurance in Connecticut is expensive and getting worse every year. The main driver of rising premiums is prices charged by large health systems. Consolidation has stifled competition, allowing prices to rise unchecked, has done nothing to improve quality, has reduced consumer choice, and eroded working conditions for overwhelmed nurses and other clinical staff. Other states have taken action to level the playing field by prohibiting anti-competitive health system contracts, and it's working. Connecticut needs to pass SB 416 to lower healthcare costs and insurance premiums.

Connecticut Association of Health Plans respectfully urges **support** for the provisions included in SB 416. Prohibiting hospital health systems from requiring that health plans enter into "all or nothing" contracts that require the inclusion of all facilities within one system to be included under a single agreement helps foster an endangered competitive market in Connecticut by incentivizing organizations within organizations to compete on the basis of cost and quality. Likewise, the provisions of the proposal that prohibit anti-steering and anti-tiering clauses underscore the value that can be derived by aligning financial incentives around both cost of care and quality metrics. As Connecticut's market becomes more and more concentrated under just a few umbrella health systems, appropriate safeguards are warranted to assure no one party is unduly advantaged over another.

Liz Dupont-Diehl, Special Projects Coordinator, Connecticut Citizen Action Group believes the bill will provide critical steps to help lessen the burden of skyrocketing health care costs to Connecticut families. SB 416's potential to streamline the prior authorization process will help with these issues and CCAG urges its passage.

Jordan Fairchild, Coordinator & Community Organizer, Keep the Promise Coalition **supports** the bill and echoes the testimony submitted by Ellen Andrews of the Connecticut Health Policy Project. For far too long, large, consolidated health systems have used their monopoly power to stifle competition, leading to price increases without a guarantee of improvements in quality of care.

Timothy Gabriele says SB 416 is more than just a band-aid. It remedies a major aspect of our broken system, but it's not the full path to achieving wellness for all of Connecticut's residents. For that, we would need a federal Medicare-for-All system in which all are covered and high quality healthcare is guaranteed at any provider. He hopes the committee agrees that SB 416 is due for a vote and deserves your support.

Holly Hackett, Office Administrator, Keep the Promise Coalition refers you to the testimony of Ellen Andrews on this bill regarding KTPs stance. She notes that there is no transparency with the rates that each provider pays or the insurance charges because they don't want the consumer to know.

Karen Siegel, Health Equity Solutions says that to ensure their effectiveness, the proposal should incorporate strong evaluation and monitoring to ensure that they advance equity and affordability and do not have unintended negative consequences.

Theodore R. Herman **supports** the bill because it would prevent large health systems from using their monopoly powers to raise prices, which is the most significant driver of the rising cost of health insurance. This bill would reduce the financial challenges that negatively impact independent community hospitals and small practices by eliminating the ability of large health systems to raise prices indiscriminately.

Diane Keefe says that consolidation of hospitals and providers into large health systems is the main driver of rising healthcare costs in CT. The State of CT legislature needs to remove the ability of large healthcare systems to use “all or nothing” and steering clauses in contracts, (i.e., monopolistic) practices that prevent insurance carriers from creating competitive local marketplaces for healthcare services.

Haley J Magnetta, CT Health Policy Project, as a provider who has worked in hospitals that have been consolidated, shares some of the experiences, commonly referred to as “growing pains,” hospital staff endure as a consequence of consolidation. Additionally, increased consolidation leads to harm in the labor market. Right now, there is a great nursing shortage in Connecticut and the rest of the country. Hospital staff such as nurses and providers have been under tremendous pressure to care for patients during the pandemic. Unfortunately, hospital mergers often lead to poorer wages and erosion of benefits because competition between hospital systems is eliminated. When there is loss of competition within the labor market, hospitals lose talent and cannot attract talent. Connecticut needs to pass SB-416 to lower healthcare prices, improve quality, and protect workers.

Marvia McDonald-Dias has witnessed many patients who voiced their worries about the cost of their healthcare as much as they expressed their concern about their diagnosis. This additional stress negatively impacts their recovery, adding more symptoms and diagnoses and increasing hospital admission time. Most patients admitted to the hospital have also exhibited signs of emotional distress due to psychosocial issues such as job loss which leads to loss of income. Insurance in Connecticut is expensive and growing worse every year. The main driver of rising premiums is prices charged by large health care systems. Consolidation has diminished competition, allowing prices to rise unchecked, has done nothing to improve quality or increase consumer choice, but erodes working conditions for overwhelmed nurses and other clinical staff. Connecticut needs to pass SB 416 to lower healthcare costs and insurance premiums to help its residents.

Donna Nicolino says insurance in Connecticut is expensive and getting worse every year. Her health insurance and medical costs will be about 10% of her income or more this year. This strikes her as entirely unacceptable, yet it is very common. She says she is fortunate to be in overall in good health. The main driver of rising premiums is prices charged by large health systems. Consolidation has stifled competition, allowing prices to rise unchecked, has done nothing to improve quality, has reduced consumer choice, and eroded working conditions for overwhelmed nurses and other clinical staff. Other states have taken action to level the playing field by prohibiting anti-competitive health systems contracts, and it's working. Connecticut needs to pass SB 416 to lower healthcare costs and insurance premiums.

Lisa Trumble, President & CEO, Trinity Health of New England believes the provisions of SB 416 which prohibit anti-steering and anti-tiering clauses in contracts between health insurance

carriers and providers will promote appropriate competition between health care providers that will encourage higher quality and lower-cost health care.

NATURE AND SOURCES OF OPPOSITION:

Connecticut Society of Eye Physicians, Connecticut Dermatology & Dermatologic Surgery Society, ENT Society, Connecticut Urology Society believes the bill is poorly written and negates, in their opinion and with consultation from their contract health attorneys, what the intent of this bill tries to achieve. We appreciate this committee's willingness to help physicians combat the many injustices in healthcare contracts and hope this committee will continue to pursue language that supports this end. We also ask that if this committee is committed to this piece of legislation, they consult the CSMS and our above-mentioned societies to fully understand our concern and seek language we feel will level the playing field between physicians and insurers. Thank you for your time and consideration.

Connecticut Hospital Association says SB 416 seeks to reach into existing contracts and make statutory changes. We respectfully ask that the legislature not interfere with existing contracts that have been negotiated between healthcare providers. Changes in law that materially affect contractual rights should be prospective.

David Godbout **opposes** the bill.

Bruce Liang, Interim CEO, UConn Health has concerns about large wave hospital system consolidations occurring in our State. He testified at the Appropriations budget hearing that he is concerned the consolidations are going to have a negative impact on the quality of medical student education. There is also a concern about patient access to care in local communities in terms of quality specialty care — not just primary care — at local hospitals. Large-scale consolidations often limit choices patients have in where they can go for care. Our concerns on the anti-tiering clause are that small entities will not be able to gain entry into preferred tiers, thus making it harder for patients to choose services with smaller providers. This could, like the anti-steering clause, also have the opposite of the intended effect of the proposed legislation, giving larger health systems an advantage.

Reported by: Daniil Toropov

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