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**BEFORE THE SENATE COMMERCE COMMITTEE
CONCERNING S3807 AND S49 ESTABLISHING A STATE-BASED HEALTH
INSURANCE EXCHANGE**

JUNE 3, 2019

Sen. Chair Pou, Sen. Vice-Chair Cryan and other members of the Committee:

We want to thank you very much for this opportunity to address S3807 and S49 dealing with the establishment of a state-based health insurance exchange. My name is Renée Steinhagen, Ex. Dir. of New Jersey Appleseed Public Interest Law Center, and my colleague to my right is Maura Collinsgru, Health Care Program Dir. at New Jersey Citizen Action. We speak to you today on behalf of NJ for Health Care, which is a broad coalition of consumer advocates. As a Coalition, we have long been strong supporters of state-based health insurance exchanges. We are thus generally supportive of the two bills. Nonetheless, we are requesting significant amendments, which we assert need to be addressed before we as consumers can endorse either piece of legislation.

In specific, we believe that the experience around the country since 2012, when Senator Gill first sponsored a

significant bill establishing a state-based health insurance exchange (S1319), confirms that in order to create a successful, consumer friendly exchange, that exchange must be independent of other units of state government. Moreover, such independent public entity (that was established in S1319) must: (i) have a qualified, pro-consumer governing board that is governed by strong conflict of interest provisions, (ii) have the authority to fully coordinate with Medicaid and NJ Family Care (as Senator Pou's bill contemplates), (iii) be able to offer plans that improve affordability, health quality and market stability, and (iv) have the ability to contract with independent community-based organizations in order to ensure effective outreach and assistance.

We look forward to working with you as S3807 and S49 move forward to make sure that New Jersey can capture the experience of other states in order to establish an efficient and effective consumer oriented health insurance exchange, which may play a vital role in improving New Jersey's healthcare system. Accordingly, we are recommending that the following changes be made to Sections 1(d) and 2 in S3807 and Sections 2, 3 and 4 in S49.

Public Mission

The New Jersey Exchange should be established in the public interest, for the benefit of the people and businesses who

obtain health insurance coverage for themselves, their families and their employees. It should empower consumers by giving them the information and tools they need to make sound insurance choices. The Exchange should work to reduce the number of insured, improve health care quality, eliminate health disparities, control costs, and ensure access to affordable, quality, accountable care across the state. **The Legislation must include a statement of such public mission.**

Independent Public Exchange and The Governing Board

Our recommendations in this area are influenced by the experience of other states, and in particular we look to California and Massachusetts, who, in our assessment, have been able to establish successful health insurance exchanges.

First and foremost, **we recommend that the exchange should be a distinct legal entity that is independent of other units of government, including those departments with which it most coordinate.** That is, it should be "in but not of" the Department of Banking and Insurance ("DOBI"). It must be able to perform inherently governmental functions like determining income eligibility, coordinating with other state agencies and programs, such as Medicaid and NJ FamilyCare. It must also adopt rules and policies governing health insurance plan participation and design.

Secondly, **we recommend that the exchange have a qualified, pro-consumer governing board.** In previous iterations, Senator Gill's bill in 2012 established a governing board of seven members. At this time, the Coalition is not calling for a board of any particular number; but, we do assert that consumer representatives should comprise a majority of the board. Moreover, all board members must have expertise in one or more of the following areas: consumer advocacy, individual health care coverage, small employer health care coverage, health benefits plan administration and health care finance. The governing board may not include members who are affiliated with the health care industry, and strong conflict of interest provisions must govern the Board.

Furthermore, we believe that the Board should include not only the Commissioner of Banking and Insurance, but also the Commissioners of Human Services ("DHS") and Health ("DOH"). The Commissioner of Health should be on the board given that the exchange must deal with provider and population health issues. In order to ensure independence of the Board, we would like to see the participating commissioners on the Board be non-voting members.

Public Accountability

We understand that DHS and DOBI may have to implement regulations in order to permit information sharing with the

Exchange; however, we think that the legislation should make clear that **the Board has sole jurisdiction over regulations concerning the governance and operation of the Exchange.**

We also believe that the legislation should speak to judicial review of determinations made by the Exchange regarding certification or subsidies. Accordingly, the legislation should state explicitly that the Exchange is subject to not only the Administrative Procedure Act, but also open meetings and public disclosure laws. **Transparency and public accountability are key to the Exchange's success.**

Ensuring Access: Qualified Community Navigators

One of the key roles of the state-based insurance exchange is to drive effective outreach. The Massachusetts exchange has created extensive navigator plans, with call centers and walk-in centers that are fully coordinated with consumer based organizations that are free of insurer conflicts of interest and have a history of working with diverse communities. The Exchange accordingly must have the capacity to provide customer service that understands diverse populations, such as people with disabilities, mental health and substance use disorder needs, immigrants or those with limited income. To do so, **we recommend that the Exchange should have the capacity to contract with independent organizations trusted by these communities that will help consumers and small groups navigate the various health**

insurance plans and services offered through the Exchange in a culturally competent manner.

We therefore make the following suggestions to ensure that the Legislature explicitly recognizes the role that nonprofit, community navigators can play in the success of the Exchange (based on language that was previously included in S1319):

- **The Exchange shall establish an Internet website** that provides standardized comparative information on qualified health benefit plans; and which also provides information on how to obtain assistance from a qualified community or consumer oriented nonprofit navigator or a licensed insurance producer for those individuals wishing to do so;
- The Exchange shall undertake activities necessary to market and publicize the availability of health care coverage and federal subsidies through the exchange, and undertake outreach and enrollment activities that seek to assist enrollees and potential enrollees with enrolling and reenrolling in the exchange in the least burdensome manner; **and develop an outreach plan, with input from a consumer outreach and assistance committee;**
- The Exchange, **with the assistance from a consumer outreach and assistance committee,** shall define best-practices to reach and counsel participants about the Exchange, Medicaid and NJ FamilyCare markets, including selection of plans and transition

procedures for transitioning among Medicaid, NJ FamilyCare, Exchange plans and other coverage; and

- The Exchange shall ensure that there are a sufficient number of navigators that possess the experience and capacity to serve disadvantaged, hard-to-reach, and culturally or linguistically isolated populations.

Ensuring Market Stability and Affordability

As both S3807 and S49 acknowledge, there is a question as to whether the respective boards of the New Jersey Individual Health Coverage Program and the New Jersey Small Employer Health Benefits Program should continue to exist or be reorganized within the newly established health insurance exchange. We agree with S49's call for a report to be sent to the Governor and to the Legislature in order to make a decision with respect to those boards.

In addition, we would like the legislation to require the Exchange Board to undertake an insurance options report that addresses options to ensure affordable health plan options. We specifically recommend that the Exchange undertake an actuarial and/or microsimulation analysis of options for the state to provide more affordable health coverage in the individual market both for consumers who are currently eligible for federal financial assistance and those who are not, while reducing disruptions in coverage affordability for consumers who become

ineligible for Medicaid due to an increase in the minimum wage or who will lose federal subsidies in the Marketplace or exceed the income limits for federal subsidies in the Marketplace for other reasons.

A key function of state-based health insurance exchanges is to manage health reform in the state and implementation of the Affordable Care Act so as to meet local needs. The Exchange must be able to manage state mandated benefits, any effort by the state to enhance subsidies, target students or immigrant populations, and explore federal waiver programs. We trust that you will agree and amendments will be made to ensure effectiveness and ultimate success.

Thank-you for your anticipated consideration of our recommendations.