Advisory Board for Consumer Operated and Oriented Plan (Co-op) Program
Testimony of Sabrina Corlette
Georgetown University Health Policy Institute
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Good morning. My name is Sabrina Corlette, and I am a research professor and director of health insurance studies at the Georgetown University Health Policy Institute. Thank you for the opportunity to testify before you today. The Health Policy Institute at Georgetown is a multi-disciplinary group of faculty conducting research and policy analysis on issues relating to Medicare, Medicaid, children's health, long term care, and private insurance. My work at HPI is focused on federal and state laws and programs to protect consumers in health insurance markets. HPI has trained consumer advocates and policymakers on federal and state laws and programs, and prepared resource manuals, issue briefs and fact sheets to help consumer advocates better understand insurance issues. We work regularly and closely with senior health insurance regulatory staff in all 50 states and in federal agencies. In addition to my work at Georgetown, I also serve as a "consumer representative" to the National Association of Insurance Commissioners (NAIC). In that capacity, I work to ensure that the NAIC and its membership understand the needs of consumers, and help shape NAIC policies and recommendations so that they benefit consumers to the greatest extent possible.

First and foremost, I want to thank you for your willingness to serve on this advisory board. As envisioned by its Congressional authors, Section 1322 of the Patient Protection and Affordable Care Act (ACA) holds great promise for consumers seeking better options for affordable, adequate insurance coverage. But in order for that promise to be realized, it is critical that you and your partners at HHS articulate principles, priorities and practices to ensure that Co-op plans function in the best interest of consumers.

In my testimony today, I will address:

- Why consumers need viable alternative options to traditional insurance;
- What characteristics Co-ops must have in order to be truly "consumer operated and oriented;" and
- What it means to be a "consumer representative."

Why are Co-ops an important option for consumers?

Co-ops provide us with an opportunity to bring new competition, choice and accountability to insurance markets. Most individuals and small business owners purchasing coverage today face an insurance market that is simply not competitive. A 2004 study found that in 36 states, three or fewer insurers accounted for 65 percent of the commercial market. And 34 states had markets that exceeded federal guidelines for anti-trust concern.[1] The American Medical Association found in a 2010 report that in 24

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[1] John Holohan, L. Blumberg, "Is the Public Plan Option a Necessary Part of Health Reform?" The Urban Institute, available at http://www.urban.org/uploadedpdf/411915_public_plan_option.pdf.

of 43 states reporting, the two largest insurers had a combined market share of 70 percent or more. This number was up from 18 of 42 states the year before.[2]

Because of this ever-increasing concentration in the insurance industry, insurers have had little incentive to make their operations more efficient or extract greater price concessions from providers, who are also increasingly concentrated. A recent study by the Massachusetts Attorney General found that one of the biggest drivers of health insurance premium increases in that state was the fact that carriers were doing little or nothing to question or check the reimbursement increases requested by providers.[3] A study of California markets found very similar results.[4]

Of course, during the health reform debate in the 111th Congress, many advocates pushed for a *government*-run insurance option to provide necessary competition in the marketplace and give people access to a more affordable option. However, as many of you may recall, this proposal generated fierce opposition from almost every industry stakeholder – plans and providers in particular lobbied hard against it. The proposal to create a Co-op program was developed in part as a compromise. Co-ops have the potential to generate the same competition, choice and accountability as the public plan option, but without the specter of "government control." Because these plans would be "owned" by their members, the theory is, they would focus on getting the best value for consumers as opposed to maximizing profits for shareholders.

As envisioned by Senator Kent Conrad and other Congressional boosters, Co-ops would provide affordable health insurance options by creating a pool of consumers that could negotiate with providers for health care. These Co-ops would provide value to consumers by returning surplus revenue to members in the form of lower premiums, lower cost-sharing, or expanded benefits. In addition, because the legislation encourages the development of integrated systems, Co-ops would have incentives to implement payment and delivery system innovations such as chronic care management and value-based purchasing. Group Health of Puget Sound, a large health insurer in the Pacific Northwest is often mentioned as a model for Co-ops. The plan is generally rated highly in terms of quality and consumer satisfaction and is viewed as an innovator in delivery system reform.

Co-ops, if done right, provide a critically important opportunity to inject new choices into the individual and small group insurance markets. Such competition can and should bring down prices, generate competition based on quality and value, and encourage innovation in provider reimbursement strategies.

Characteristics of a "Consumer Operated and Oriented" plan

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[2] American Medical Association, "Competition in Health Insurance: A Comprehensive Study of U.S. Markets," Feb. 2010, available for purchase at https://catalog.ama-assn.org/Catalog/product/product_detail.jsp?productId=prod1590006.

[3] Massachusetts Attorney General, "Investigation of Health Care Cost Trends and Cost Drivers," Preliminary Report, Jan. 2010, available at http://www.mass.gov/Cago/docs/healthcare/Investigation_HCCT&CD.pdf.

[4] B. Berenson, P. Ginsberg, "Unchecked Provider Clout in California Foreshadows Challenges to Health Reform," *Health Affairs*, Dec. 2010, available at http://content.healthaffairs.org/content/early/2010/02/25/hlthaff.2009.0715.full.

Just because something is *called* consumer-oriented does not mean that it is truly focused on the needs and interests of consumers. Certain governance and operational structures must be in place in order to ensure that Co-ops are what they purport to be. Unfortunately, aside from a general requirement that the governance of the co-op be subject to "majority vote" of its members, the ACA itself provides little guarantee that Co-ops will meet their promise of being consumer led and operated.

The law does, however, require HHS to promulgate regulations that ensure the Co-ops operate with a "strong consumer focus, including timeliness, responsiveness, and accountability to members." It is up to you to help define what that means.

As you engage in this effort, I urge you to consider some key characteristics that Co-ops should have in order to be effectively "consumer-operated and oriented." These would include:

- Inclusion of consumer representatives in planning for and developing the proposal for grants and loans under this program;
- A mission statement, operational goals and benchmarks that put the needs and interests of consumers first;
- Transparent, clear requirements and procedures for consumers to become members (or be removed as members), including due process rights for consumers who disagree with a decision about their membership;
- Transparent, written by-laws that facilitate the effective involvement of consumer representatives in the governance of the Co-op, including, but not limited to:
    - Strong conflict of interest rules;
    - Open membership and board meetings, held with plenty of advance notice and during evening hours or on weekends to facilitate maximum membership participation;
    - Procedures for formally shaping Co-op decision-making (i.e., through offering/voting on motions or resolutions);
    - Quorum requirements;
    - Rules for voting;
    - Rules for selection and election of Board members, including requiring a balance between consumer representatives and substance experts; and
    - Opportunities for consumer representatives to participate in standing or ad-hoc governing and/or advisory committees.
- Descriptions of staff roles and responsibilities that include clear expectations for membership services, consumer assistance and support; and
- Compensation structures for staff that reward timely and effective consumer service and support.

<u>Defining "consumer representative"</u>

I would also stress that the term "consumer representative" needs definition, because it could be open to misinterpretation. There have been cases, for example, when some "consumer representatives" really work for an industry stakeholder, but claim to wear the "consumer" hat – after all, everyone of us

is at some point a “health care consumer,” no matter who we work for. The Robert Wood Johnson Foundation-funded effort, “Aligning Forces for Quality,” has done some excellent work defining what it means to have real “consumer representation” in the governance of an organization or initiative.[5] In general, a consumer representative is someone who works for a mission-driven non-profit organization that represents a constituency of consumers or patients. What distinguishes a consumer representative from other stakeholders is:

- A primary emphasis on the needs of consumers and patients;
- Lack of a financial stake in the health care system;
- Independence from government or industry in decision-making; and
- Public recognition as an organization that advances the interests of consumers.

In addition, consumer representatives serve as a trusted source of information in their communities. Unlike an individual consumer or health industry stakeholder, they can speak from a community perspective and have experience representing the diverse needs of consumers and patients. They also have networks to empower and mobilize the community, using email lists, websites, meetings, newsletters and conferences to share information and messages. And most consumer organizations have established relationships with the media, policymakers and elected officials that they can leverage in support of their goals.

Examples of groups that could provide consumer representatives to Co-op governing bodies include:

- Organizations serving specific constituencies, such as women, children, older adults, minority patients, and workers, such as AARP, NAACP, and SEIU.
- Disease specific organizations, such as the American Heart Association, American Cancer Society, and Autism Speaks.
- Faith-based organizations, such as churches, mosques and synagogues.
- Broad-based or policy-focused organizations, such as Consumers Union, U.S. PIRG, and Community Catalyst.

Conclusion

The ACA provides only the broadest possible framework for the creation of state-based Consumer Operated and Oriented health plans. You have before you the critical task of defining “consumer operated and oriented”, in order to ensure that these new entities live up to their promise of providing a viable alternative option for consumers and small business owners in today’s insurance marketplace. Thank you for the opportunity to share with you my views on the necessary elements and characteristics of a truly consumer-driven health plan, and I look forward to the results of your deliberations.

[5] Aligning Forces for Quality, “Defining Consumer Representation,” available at http://qualitycarenow.nationalpartnership.org/site/DocServer/Fact_Sheet_12-18-09.pdf?docID=5981.