

Formal Testimony of

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before

The Consumer Operated and Oriented Plan (CO-OP) Advisory Board

Office of Consumer Information and Insurance Oversight

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Good afternoon, Mr. Chairman and Board Members: I am Mark Rust, Managing Partner of the Chicago office of Barnes & Thornburg LLP and chair of its national Healthcare Department. Barnes & Thornburg is a 520-attorney firm with offices in 10 cities. We have represented health insurers, including non-profit, provider-sponsored health plans. In addition, we represent a large number of healthcare providers around the country.

Many of those providers are interested in pursuing development and sponsorship of a CO-OP under §1322 for the purposes of purchasing health benefits for themselves, their employees and families and offering the same insurance to members of the public. Providers are consumers in that they purchase health insurance in individual and group markets for themselves and their beneficiaries. For example, large hospitals may self-fund and administer their plans. Their independent physician staff members purchase insurance for themselves and their employees on the open market. Providers who are motivated to make the step into clinical integration as Accountable Care Organizations under §3022 demonstrate an even higher level of the sophistication needed to successfully compete as a CO-OP.

There will be three legs to the stool of CO-OP creation: infrastructure, provider networks and funding. For providers, the rental of insurance company infrastructure will help build the guts of operation quickly and delay a large portion of upfront cost. The formation of networks will be the easiest piece, since the provider networks can themselves be among the CO-OP founders.

The third leg, funding, presents two hurdles, which are the work of this committee. The first is the method by which the Office of Consumer Information and Insurance Oversight initially certifies an entity in formation as justified to receive loans to defray start-up costs. This is critical to helping those organizations take the practical steps necessary to complete formation and become insurers. It needs to happen quickly upon the submission of a valid and credible business plan that includes a proposed method for clinical integration and clinical accountability.

The second hurdle is the question of how to fund initial reserves. This issue is complicated by varying state laws and variance among state insurance commissioners on how to determine the solvency of a start-up insurer. We would strongly urge this committee to seek the advice of the National Organization of Life and Health Insurance Guarantee Association and work closely with the National Association of Insurance Commissioners to recommend a model approach to upfront reserves and the purchase of re-insurance, so that the federal government has a standard on which it can risk capital, and founders of those CO-OPS, like our provider clients, understand what capital they will need ultimately to qualify to do business under state law.

If this committee can resolve these issues first, providers who have taken the steps to become Accountable Care Organizations will be well-positioned to develop credible business plans and inject real insurance competition in local markets, as the Senate drafters envisioned, and become sustainable CO-OPs.

Thank you for the opportunity to speak to you today. I stand ready to assist you as you examine these issues in more detail.