



May 28, 2019

Louisiana House of Representatives
900 North 3rd Street
Baton Rouge, LA 70804

Dear Representatives:

As a voice for thousands of patients in Louisiana who live with serious, acute, and chronic health conditions, our organizations write to express significant concerns regarding Senate Bill 173. Under limited circumstances, this bill would apply certain patient protections to state-regulated health insurance plans and create a high-risk pool for the State of Louisiana. **While our organizations appreciate the efforts of the legislature to enshrine some protections for Louisianans living with pre-existing conditions, we urge the House to not pass this bill, as we believe it fails to advance a sufficient degree of protection for patients and consumers in Louisiana.**

SB 173, as originally written, would have enshrined in state law several of the patient protections currently afforded by the Affordable Care Act (ACA), if the ACA were to be invalidated in the future. After being

amended by the Senate Health and Welfare Committee earlier this month, SB 173 now includes language that prevents those very protections from taking effect in Louisiana if the ACA is invalidated. This severely limits the bill's ability to protect patients in the future, should the need arise.

The bill lacks several other protections critical to ensuring that, in the absence of the ACA, patients will continue to have access to meaningful coverage. In a recently-published analysis of SB 173, the Georgetown University Health Policy Institute's Center on Health Insurance Reforms noted that "SB 173 doesn't have an answer for individuals who have gained coverage through Medicaid expansion or who rely on premium tax credits to afford coverage¹" and also that "the bill does not include the ACA's guarantee that insurers issue coverage to all applicants, regardless of their health status. This means that if the ACA is overturned, insurers will go back to the pre-ACA practices of requiring applicants to fill out lengthy health questionnaires. People who report chronic conditions like diabetes, heart disease, or cancer (even if in remission) will likely find their applications denied."² Again, deficits like these severely limit the ability of this legislation to protect access to meaningful coverage, especially for Louisianans living with a pre-existing condition.

Further, SB 173 has been amended to allow the creation of a high-risk pool, despite extensive documentation showing the inadequacy of high-risk pools. A 2011 study of the nation's largest³ pre-ACA high-risk pool, for example, the Minnesota Comprehensive Health Association (MCHA), found that "high-risk pools cover too small a portion of the uninsured population to be a panacea for the problem of the uninsured or the uninsurable. MCHA's enrollment represents only 7% of the state's uninsured population, and in most other states, high-risk pool enrollment comprises less than 1% of the uninsured population."⁴ Indeed, when Louisiana operated a high-risk pool prior to the implementation of the ACA, it was able to enroll only 1% of the non-group market in the state in 2011.⁵ Given that 30% of non-senior Louisianans have pre-existing conditions,⁶ a high-risk pool will almost certainly fail again to meet the demand for comprehensive coverage among patients in the state and thus should not be regarded as a sufficient alternative to or replacement for the access to coverage facilitated by the ACA.

Our organizations greatly appreciate the efforts of the legislature to enshrine in state law a number of the ACA's important patient protections. But again, we believe that SB 173 fails to advance a sufficient degree of protection for patients and consumers in Louisiana and, depending on how its high-risk pool provisions are implemented, may even result in harm for Louisianans with pre-existing conditions. For that reason,

¹ Corlett, Sabrina and Giovanni, Justin. Protecting People with Preexisting Conditions Requires More Than a Piecemeal Approach: An Assessment of a Louisiana Bill to Codify Some, But Not All, ACA Protections. May 15, 2019 <http://chirblog.org/protecting-people-preexisting-conditions-requires-piecemeal-approach-assessment-louisiana-bill-codify-not-aca-protections/>

² Ibid

³ Blewett, Lynn, Spencer, Donna and Burke, Courtney. State High Risk Pools: An Update on the Minnesota Comprehensive Health Association. American Journal of Public Health, February 2011. Accessed May 20, 2019 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3020190/#bib14>

⁴ Ibid

⁵ Pollitz, Karen. High Risk Pools For Uninsurable Individuals. Kaiser Family Foundation. February 22, 2017. <https://www.kff.org/health-reform/issue-brief/high-risk-pools-for-uninsurable-individuals/>

⁶ The Kaiser Family Foundation, Estimated Number of Nonelderly Adults with Declinable Pre-existing Conditions under Pre-ACA Practices, accessed May 20, 2019. <https://www.kff.org/other/state-indicator/estimated-number-of-non-elderly-adults-with-declinable-pre-existing-conditions-under-pre-aca-practices/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

we urge the House to not advance this bill and to instead work closely with patient organizations like ours to develop more robust, patient-centered approaches to improving access to coverage.

Sincerely,

Signing orgs