

**Senate Executive Committee Meeting**

**Official Minutes  
151<sup>st</sup> General Assembly  
First Session**

**Committee Meeting  
Wednesday, April 28, 2021  
2:30 p.m.  
Virtual Zoom Meeting**

**Meeting Attendance**

**Committee Members Present:**

Senator David Sokola	<a href="mailto:David.Sokola@delaware.gov">David.Sokola@delaware.gov</a>
Senator Bryan Townsend	<a href="mailto:Bryan.Townsend@delaware.gov">Bryan.Townsend@delaware.gov</a>
Senator Elizabeth Lockman	<a href="mailto:Elizabeth.Lockman@delaware.gov">Elizabeth.Lockman@delaware.gov</a>
Senator Stephanie Hansen	<a href="mailto:Stephanie.Hansen@delaware.gov">Stephanie.Hansen@delaware.gov</a>
Senator Gerald Hocker	<a href="mailto:Gerald.Hocker@delaware.gov">Gerald.Hocker@delaware.gov</a>
Senator Brian Pettyjohn	<a href="mailto:Brian.Pettyjohn@delaware.gov">Brian.Pettyjohn@delaware.gov</a>

**Absent:**

**Staff:**

Valerie McCartan	<a href="mailto:Valerie.McCartan@delaware.gov">Valerie.McCartan@delaware.gov</a>
Abigail Armstrong	<a href="mailto:Abigail.Armstrong@delaware.gov">Abigail.Armstrong@delaware.gov</a>

**Attendees:**

Abimbola Osunkoya  
Andrea Freud  
Anna Shields  
Anne Farley  
Bob Byrd  
Caroline Smith  
Carolyn Martin-Pettaway  
Carrie Cole  
Chanta Howard Wilkinson  
Christina Bryan  
Christine Schiltz  
David Clothier  
David Bentz  
Deborah Zarek, MD.  
Deborah Hamilton  
Deepti Kanneganti

**Organization:**

Delaware primary care  
Delaware Superior Court  
Senate Majority Caucus  
DSDS  
ByrdGomes  
Aledade  
Delaware State Senate Staff  
ByrdGomes  
Chanta Wilkinson Consulting, LLC  
Delaware Healthcare Association  
Parkowski, Guerke & Swayze  
Stoney Batter Family Medicine Associates  
Delaware House of Representatives  
Progressive Health of Delaware  
Hamilton Goodman Partners  
Bailit Health Purchasing, LLC

Dick Carter  
 Donna Smith  
 Dr. John Fink MD.  
 Dr. Nina Anderson  
 Drew Fennell  
 Faith Rentz  
 Francis Jones  
 James Gill  
 James Nutter  
 Jamie Clarke  
 Jan Jurden  
 Janice Durham  
 Jason Hann-Deschaine  
 Jason Smith  
 Javier Horstmann  
 Jeffrey Cramer  
 Jennifer Peres  
 Joe Bryant  
 John Van Gorp  
 John Jannelli  
 Jonathan Kirch  
 Juliann Villecco  
 Julie Fedele  
 Karlis Johnson  
 Kate Harmon  
 Kathy Willey  
 Kiki Evinger  
 Kris Hathaway  
 Leah Brenner  
 Leslie Ledogar  
 Lincoln Willis  
 Lisa Goodman  
 Lisa Robinson  
 Lizzie Lewis  
 Mark Mayer  
 Martin Peres  
 Mary Condon  
 Mary Davis  
 Mary Kate McLaughlin  
 Matthew Gotthold  
 Matthew Burday  
 Meghan Walls  
 Melanie Ewing-Lahutsky  
 Meredith Tweedie

Delaware State Senate staff  
 Tova Community Health  
 Bay Health  
[www.tovacommunityhealth.org](http://www.tovacommunityhealth.org)  
 CCHS  
 Department of Human Resources  
 Superior Court  
 Family Medicine at Greenhill  
 Parkowski, Guerke & Swayze, P.A.  
 Nemours  
 Superior Court  
 House of Representatives  
 Delaware Pediatrics  
 Delaware General Assembly  
 Office of Governor John Carney  
 Delaware Family Care Associates  
  
 OGOV  
 BAYHEALTH  
 Delaware United  
 WFP & DE DSA  
 DE Department of Health and Social Service  
 CGO  
 State of Delaware  
 Benesch, Friedlander, Coplan & Aronoff  
 Quality Family Physicians  
 DHSS  
 America's Health Insurance Plans (AHIP)  
 Wilson Sonsini Goodrich & Rosati  
 Delaware Department of Insurance  
 Medical Society of Delaware  
 Hamilton Goodman Partners  
 Superior Court of Delaware  
 Hamilton Goodman Partners  
 Concord High School  
 None  
 Freedman Healthcare  
 Mary Davis, Government Relations  
 Faegre Drinker  
 Delaware Pediatrics  
 Christiana Care  
 Nemours  
 Superior Court of Delaware  
 Christiana Care

Michael Tretina  
 Mollie Poland  
 Pamela Price  
 Patricia Redmond  
 Paul Speidell  
 Rebecca Byrd  
 Richard Squier  
 Robert Scoglietti  
 Robert Walter  
 Rosario Calvachi-Mateyko  
 Russell Larson  
 Ruth Jones  
 Ryan Forman  
 Sarah Mullins  
 Sarah Noonan Davis  
 Selvam Mascarenhas  
 Shaku Bhaya  
 Steven Costantino  
 Susan Conaty-Buck  
 Sydni Martin-Hernandez  
 Tanisha Merced  
 Tasha Marie Stevens  
 Teresa Reena Mascarenhas  
 Tiphany Cascella  
 Tyler Blanchard  
 Victoria Brennan  
 Vinayak Sinha  
 Vineet Puri  
 Wayne Smith

BAYHEALTH  
 Nemours  
 Highmark BCBS  
 Nemours  
 CVS Health  
 ByrdGomes  
 BAYHEALTH  
 CGO  
 Brandywine Pediatrics  
 Latino Initiative on Restorative Justice  
 Byrd homes  
 Office of the Controller General  
 Nemours  
 Stoney Batter Family Medicine  
 DHSS  
 Medical Society of Delaware  
  
 Delaware Health and Social Services  
 Delaware Coalition of Nurse Practitioners  
 TOVA Community Health at Greenhill  
 Department of Insurance  
 Fuqua, Willard, Stevens & Schab, P.A.  
 Infectious Disease Consultants  
 WSGR  
 Aledade ACO  
 CGO  
 Freedman HealthCare  
 Primary Care of Delaware, LLC  
 Delaware Healthcare Association

**Agenda:**

SB 120

**Senator Sokola** convened the meeting at 2:31 p.m. and conducted a roll call.

The Executive Committee reviewed the gubernatorial nominations for Vice Chancellor of the Court of Chancery, Judge of the Superior Court for Kent County, and Judge of the Court of Common Pleas.

- I. **SB 120 – Sen. Townsend - AN ACT TO AMEND TITLE 16 AND TITLE 18 OF THE DELAWARE CODE, CHAPTER 189, VOLUME 82 OF THE LAWS OF DELAWARE, AND CHAPTER 392, VOLUME 81 OF THE LAWS OF DELAWARE, AS AMENDED BY CHAPTER 141, VOLUME 82 OF THE LAWS OF DELAWARE, RELATING TO PRIMARY CARE SERVICES.**

**Synopsis:** This Act continues recent efforts to strengthen the primary care system in this State by doing the following: (1) Directing the Health Care Commission to monitor compliance with value-based care delivery models and develop, and monitor compliance with, alternative payment methods that promote value-based care. (2) Requiring rate filings limit aggregate unit price growth for inpatient, outpatient, and other medical services, to certain percentage increases over the next 4 years. (3) Requiring an insurance carrier to spend a certain percentage of its total cost on primary care over the next 4 years. (4) Requiring the OVBHCD to establish mandatory minimums for payment innovations, including alternative payment models, and evaluate annually whether primary care spending is increasing in compliance with the established mandatory minimums for payment innovations. Sections 2 and 3 of this Act revise the appointment process for members of the PCRC who are not members by virtue of position to comply with the requirements of the Delaware Constitution. These revisions are largely similar to those proposed in Senate Substitute No. 1 to Senate Bill No. 59 (151st General Assembly) (“the Substitute”). As such, Section 2 is designed to take effect if the Substitute does not pass both chambers or passes but is not enacted; Section 3 is designed to take effect if the Substitute passes both chambers and is enacted. This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

**Senator Townsend**, Prime Sponsor of the legislation, provided a synopsis. The process for creating this legislation has taken three years. Two and a half years were dedicated to the Primary Care Reform Collaborative (PCRC) which the Legislature voted on twice and requested the PCRC to find solutions to Delaware’s primary health care crisis. This legislation incorporates the findings and analyses from the Commissioner’s Office of Value-Based Health Care Delivery (OVBHCD), which was formed under the Department of Insurance (DOI) to continue tackling the health care problem. Senator Townsend’s colleagues are aware of his passion for this issue. Senator Townsend wants to convey the critical importance of Delaware fixing primary care and the reasons why this legislation is structured the way it is. This legislation is not a unanimous bill and the Executive Committee will hear that in testimony and as it advances in the legislative process. With the Chair’s permission, Senator Townsend welcomed Dr. Nancy Fan, a practicing OBGYN.

**Dr. Nancy Fan**, Chair of the Delaware Health Care Commission and the Co-Chair of the PCRC, stated the PCRC has reviewed ways to frame a consensual resolution to Delaware’s primary care crisis. It is well known in the United States and internationally that a foundational, strong primary care specialty actually improves health outcomes and can reduce the total overall cost of care. Delaware has significantly low investment in primary care. The data from the OVBHCD provided evidence from this where our current investment before and then during the time of the PCRC 2018-2019 was approximately 4-5%. SB 227 helped somewhat stabilize the crisis by helping Practices have the same reimbursement level as Medicare. Our workforce is having greater

attrition of primary care providers and there is not a strong pipeline. There is not sustainability or stability for current Practices. These trends were exacerbated during the pandemic. The pandemic has made it very difficult to continue practicing within the current fee structure. The PCRC had good intentions of creating a consensual framework that engaged all the stakeholders. The PCRC expanded its membership to include all stakeholders including payers, clinicians, health care systems, and the State. Despite two annual reports from PCRC and the report from the OVBHCD, they were unable to move forward with recommendations that could change the health outcomes for Delawareans and the delivery of health care in Delaware. Being able to increase primary care investment without increasing the total cost of care must be balanced by the current drivers within Delaware's health care system. As evident in both PCRC's benchmarking process for the Governor's Office under the Delaware Health Care Commission and the OVBHCD report, inpatient cost trends rise significantly faster than almost any other portion of health care cost. The goal is not to increase the total cost of care, but rather to eventually provide better outcomes at a lower cost of care and to not pass the cost on to the consumer. The consumers include businesses, self-insured, the health care system, and patients. It is important to make the cost of care sustainable for consumers within the marketplace, and Delaware needs to look at how to increase investment without increasing the total cost of care. The legislation embodies the intent and recommendations from both the PCRC and the OVBHCD report. Having a strong primary care investment is good health care policy and will serve patients well.

**Senator Hansen** explained that she runs some large task forces that are controversial and understands that some large issues prohibit collaboration. Senator Hansen asked what were the primary issues that prevented a consensus.

**Dr. Nancy Fan** described that PCRC offered multiple examples of initiatives piloted in other states. The PCRC never reached the point of discussion on how those examples would be feasible for Delaware and what the implementation would entail. The discussion never continued to why those examples would not work, what the barriers would be, and what would make it plausible to implement. Dr. Fan believes funding is the biggest deterrent. Everyone knows the health care costs in Delaware are unsustainable. Delaware is one of the top 10 states in the nation but is in the bottom half for health outcomes. Why does Delaware have such high costs and not have the outcomes to show for it? Nobody wants to increase the total cost of care, which is the largest barrier for discussing how we fix Delaware's health care. PCRC was reaching that point of discussion when the pandemic started, which made engagement and discussion difficult for people. From Dr. Fan's personal experience as a physician, she sees several patients daily that ask for new primary care providers. Every day she is in the office and has patients explain that their primary care provider retired, moved out of state, or they have transferred to concierge care and they need a new provider. It is difficult for Dr. Fan because her referral list of doctors is getting smaller. This trend begs the question of how Delaware would sustain their health care delivery system if it does not have Practices in practice.

**Senator Townsend** thanked Dr. Nancy Fan and introduced Secretary Molly Magarik.

**Molly Magarik**, Secretary of the Department of Health and Social Services, thanked the members of the PCRC for their dedicated work over the last three years. PCRC had difficult but necessary conversations because Delaware is in a primary care crisis. The result of those conversations is this legislation. Primary care is one of the most trusted relationships in health care. It is the primary care clinician who by training and experience promotes the most comprehensive care for their patients. This legislation seeks to validate and invest in that relationship so it is available for all Delawareans. Secretary Magarik appreciated the PCRC's conversations and those leading up to the legislation which focused on primary care perspectives. However, DHSS views this issue as bigger than any single practice. Delaware has chronically underinvested in primary care. Many people who do not focus on primary care policy may question why it matters. Secretary Magarik acknowledged the difficulties and struggles that Dr. Fran expressed. Primary care is the foundation for a value-based health care system. A value-based health care system focuses on outcomes and a path to address social determinants or social influences of health including housing and food. A value-based system offers greater opportunities to address inequities in our system and access. Unfortunately, the increasing cost of health care in Delaware does not allow for the status quo to be sustainable. Delaware needs to move its health care system away from fee-for-service and volume-based care. The surrounding states that are advanced, faster, and more successful at transitioning to a value-based system started with a strong primary care foundation. Independent practices are not the only ones providing primary care large group practices and Delaware's health system does as well. The foundation is not as stable and robust as it needs to be. This is explained in a recent report from the OVBHCD within the DOI. The comprehensive analysis found that only 4-5% of Delaware's health care spending is dedicated to primary care. Other states that are more quickly moving towards value-based health care are spending 10% or more on primary care. The current 4-5% is not enough to provide access to patients and create the foundation for health care change that Delaware needs. Delaware needs to do better and this legislation is the start. It is an important and concrete step forward for bolstering primary care, creating the conditions to move to value-based care, and lowering spending trends as they are called for in the Governor's Health Care Spending Benchmark. The bill is two-pronged: it serves to rebalance the delivery system by moving more investment to primary care and it creates accountability and pressure for everyone to move towards value-based care. These are critical steps for Delaware to address health care spending and create better health care outcomes. This legislation does not make those investments or transitions on the backs of already strained Delawareans, small businesses, and others. Beau Biden had a saying "Don't tell me your priorities, show me your budget and I will show you your priorities". Currently, Delaware is spending 4-5% of its health care dollars on primary care. SB 120, if passed, helps Delaware align health care spending with the priority of helping Delawareans be healthy throughout their life span. It provides the critical transition for larger changes that focus

on good health care outcomes, addressing inequities, and reducing volume-based and fragmented care.

**Senator Pettyjohn** asked if the PCRC provided feedback on this legislation.

**Sec. Molly Magarik** clarified that she did not serve on the PCRC. Steven Constantino, Director of Health Care Reform and Financing, was a member. This type of bill and the rebalancing mechanism is exemplified in other states, specifically Rhode Island. Yes, state examples and mechanisms presented in SB 120 were presented and thoroughly discussed at multiple PCRC meetings and conversations.

**Senator Pettyjohn** asked if PCRC voted on the legislation.

**Dr. Nancy Fan** explained this was not a voting issue. A framework of the legislation with specific priorities was presented and PCRC provided feedback. That framework included components on primary care spend target, a rate review to make sure there was not an increase in the total cost of care and the affordability standards. A lot of the recommendations and guidelines within the legislation are encapsulated in the OVBHCD report. The report did an outstanding job of describing the framework and how to move forward. The PCRC weighed in on the initial report before it received a public review in December.

**Senator Pettyjohn** noted the PCRC is within the Health Care Commission. Senator Pettyjohn asked if the legislation is endorsed by the Health Care Commission.

**Dr. Nancy Fan** stated the legislation will be discussed in the next Health Care Commission meeting. The Commission does not discuss legislative issues until it has been drafted into legislation. The Commission is not a legislative organization, rather a policy-making organization. The content of the bill has been discussed in the Health Care Commission regarding what is needed for the PCRC.

**Senator Pettyjohn** agreed and commented it is important to gather feedback from different organizations with a far-reaching piece of legislation.

**Senator Townsend** introduced Commissioner Trinidad Navarro.

**Trinidad Navarro**, Commissioner of the Department of Insurance, explained to Senator Pettyjohn that Secretary Magarik, Dr. Fan, and himself all serve of the Health Care Commission. The Commission has had conversations and is well aware of the legislative steps. Ensuring health care access and affordability has been a priority during the entire time Commissioner Navarro has held his position. Delaware has to continue to ensure people and their health are prioritized. In recent years, the General Assembly created the OVBHCD which is under Commissioner Navarro's Department. This Office released a report entitled *Delaware Health Care Affordability Standards: An Integrated Approach to*

*Improve Access, Quality, and Value.* This report can be found on [insurance.delaware.gov](https://insurance.delaware.gov). Commissioner Navarro provided an overview of the report, which guided SB 120. The Department has worked with the primary care provider community and the sponsors of the bill to ensure all the affordability standards are tied together and implemented simultaneously. This will ensure the cost of care does not increase in an outsized way. The Department supports the provisions that allow the Department to have authority. The Department is making considerable progress on other authorities including collecting data on the rate review process. The Department is having important conversations regarding the provisions related to 2022 rate filings and is working to determine how improvements can be encouraged. The Department is also working with the Controller General's Office on a necessary fiscal note for this bill that would expand the OVBHCD's work. With the funding in place, the Department supports the legislation and requests its release from Committee. Commissioner Navarro thanked the stakeholders who provided comments to the bill sponsors, PCRC, and his team.

**Senator Sokola** commented that when volunteering at Delaware vaccine events, the doctors say Delaware needs to address primary care. Senator Sokola has received persuasive messages and comments from doctors. Senator Sokola recognized Senator Pettyjohn.

**Senator Pettyjohn** noted that many doctors and constituents support this legislation but many hospitals do not support it. Hospitals are important to our community. Senator Pettyjohn asked why there is a dichotomy.

**Senator Townsend** stated this was discussed extensively in PCRC for two and a half years. There are times people will not come to an agreement. Everyone agreed there is massive underinvestment in primary care and that Delaware is one of the costliest health care states with outcomes that are not indicative of how much is spent. But there is no agreement when discussing how to invest in primary care and how to keep people well on the front end without increasing a burdensome cost. Senator Townsend is not shocked by a lack of agreement. For those where the health system is working well, they would prefer things not to change. The health system is not working well for the primary care community. The Commissioner's report indicated the cost driver in Delaware is at the hospital level. Other states have acknowledged the system must be rebalanced. A frustrating component is hospitals in Delaware own primary care practices. The bill is a very high-level provision. Other versions that were reviewed would have mandated the payments and certain segments. This bill pulled back from that micro approach and solely requires investment in primary care and displays a broad target that must be met. This will allow the market to work freely. The Commissioner and others will continue to review the market. Additionally, this bill moves towards value-based care which was mentioned by the previous speakers. Senator Townsend respects the hospitals, but their lack of agreement on this issue cannot be viewed as a veto of this bill. Their lack of agreement also does not indicate if Delawareans are well served. This bill does not favor



providers over hospitals, rather it favors primary care. This bill lets the market push towards wellness rather than high margin, high profitability back-end treatments. Keeping people well for lower costs is a hallmark of an effective health care system. Senator Townsend appreciates the work on this topic. The fact that there is not unanimity on these points should not be viewed as a shortage of anyone's work or denial of the fundamental facts from the Commissioner's team that are laid out in their report.

**Senator Sokola** opened to public comment and recognized Leslie Ledogar from DOI.

**Leslie Ledogar** yielded her time and provided support for DOI's Commissioner Navarro.

**Senator Sokola** recognized Dr. James Gill.

**Dr. James Gill** is a family physician and owns a practice that cares for approximately 8,000 patients in Wilmington and Newark. SB 120 is important and urgent. Very few physicians, nurse practitioners, and physician assistants are going into primary care practice. This results in poor access for our citizens, reduced quality of care, and high costs for patients. Three years ago, SB 227 provided a small life preserver to primary care practices, but others have continued to close or go into concierge medicine. That is because SB 227 was designed to be a short-term gap and SB 120 works to further resolve the problem. Rhode Island found improvement in access to care with an 18% decrease in the total cost of care in the first four years. Oregon followed with similar success. Vermont, Connecticut, and Colorado are doing the same with similar success. Dr. James Gill provided written testimony attached at the end of this document.

**Senator Sokola** recognized Dr. Deborah Zarek.

**Dr. Deborah Zarek** is a primary care owner of Progressive Health of Delaware in North Wilmington and practices prevention and treatment of chronic illness. To provide this quality care, we must be adequately reimbursed. Additionally, Delaware must be more competitive to bring quality doctors in this area. Dr. Zarek recently interviewed a doctor from Louisiana who was disinterested in the position once they heard the salary. Primary care doctors in Delaware are paid far less than the national average which makes it difficult to get new primary care doctors in this area. Christiana Care does not support this legislation even though they state their support for primary care. Their reasoning is they will lose money and be forced to cut staff. That is hard to believe seeing that Christiana Care recently conducted a marketing campaign that cost millions of dollars. They sent out an advertising promotion for their surgical group. This was extra money spent and does not look like they are lacking in funds.

**Senator Sokola** recognized Dr. Matthew Gotthold.

**Dr. Matthew Gotthold** is a pediatrician at Delaware Pediatrics which cares for roughly 9,000 children in Delaware. Dr. Gotthold reiterated the PCRC points. Notably, for every dollar spent on primary care, \$10 is saved in health care, and the return on investment is astounding. Patients and large and small employers benefit from this. The payments towards primary care providers in Delaware are low compared to other states, and the hospital payments are higher than in other states. Our total healthcare dollars spent in Delaware is higher and our health outcomes are worse than in other states. Dr. Gotthold commented on the poor condition of Delaware's health care system. An investment in primary care may not be financially the best for hospitals, but it is the best for Delawareans.

**Senator Sokola** recognized Dr. Kathy Willey.

**Dr. Kathy Willey** is a family doctor in Hockessin. The money we are asking for primary care funding is not for doctors' pockets, rather it is to keep the practices running. The cost of running Dr. Willey's practice over the past 22 years has increased dramatically without a change in reimbursement rates. Four years ago, she had 4 physicians and 1 physician assistant; currently, she has herself and 3 physician assistants. Her other doctors left the practice. Looking for funding for private practice. Delaware should not be a state where doctors feel they cannot be entrepreneurs and open private practices. The hospitals and concierges are buying private practices.

**Senator Sokola** recognized Selvam Mascarenhas.

**Selvam Mascarenhas** is an internist and the chair of the American College of Physicians, Delaware Chapter. The bill aligns with the American College of Physicians' national policies. Yielded the remainder of his time.

**Senator Sokola** recognized Dr. Sarah Mullins.

**Dr. Sarah Mullins** is a family physician in Wilmington and her practice serves 18,000 patients in the northern part of the state. Our care has transformed to a value-based model over the last four years and has produced shared savings at the federal and state level. Value-based care is the future of health care, but that is only possible if there are doctors, nurse practitioners, and physician assistants in Delaware to do the work. Christiana and St. Francis residencies have practicing physicians that do not wish to stay in Delaware. Medscape is a ranking system that doctors look at for multiple types of care to see what states to practice in, and Delaware was at 49 out of 50 and is 45th out of 50 states.

**Senator Sokola** recognized Michael Tretina.

**Michael Tretina** is the chief financial officer for the Bayhealth Medical Center. Bayhealth has concerns about this bill. We subsidize government programs that do not pay their

share cost of the program which includes our local military air force base. We agree there is a problem and Bayhealth Medical Center is working towards improving increasing access and take steps towards establishing new residency programs with the hopes of bringing over 63 positions in primary care and telemedicine with the hopes of them settling in Delaware. The rate cap component of the bill concerns the Center and as CFO they will have to determine ways to make up for the lost revenue which could have other ramifications. That could be scaling back other subsidy areas, we provide a tremendous amount of community benefits, and this could also lead to job loss. Our overall goal is to save four cents on every dollar made to reinvest into our communities. Bayhealth was severely impacted by COVID and was fortunate to be able to meet the needs of our community with help from the CARES Act.

- **Senator Sokola** recognized Dr. John Fink.

**Dr. John Fink** addressed Senator Pettyjohn's comments. Dr. Fink would not be in Delaware if it were not for Bayhealth, which is a strong supporter of primary care. As a family doctor, he greatly appreciates the work of PCRC and supports any initiative for his colleagues in primary care. But diverting resources away from health systems degrades the primary care safety net. The hospital systems are dedicated to recruiting primary care to the state. Salaries are not competitive and the hospitals subsidized primary care to provide competitive salaries to bring primary care to Delaware. Bayhealth participates in value-based care programs such as the Accountable Care Organization and others.

**Senator Sokola** recognized Pamela Price.

**Pamela Price** is the Senior Government Relations Representative for Highmark Delaware. Increasing primary care spending from 4.5% to 11.5% by 2025 is unachievable without price increases to members of employers or significant reductions to reimbursement rates to nonprimary care providers. The bill proposes that a higher portion of spending on primary care providers will lead to better management of cost, but there is no accountability to delivering savings or identification of how this will happen. Highmark feels strongly that cost and quality need to be tied to an increase in spending in this legislation. Limits on unit price growth for nonprofessional services will be insufficient to cover the cost of legislation in primary care spending as they are driven by factors beyond Highmark Delaware's control. Because only 30% of the market is impacted by this legislation due to the already high number of self-funded arrangements, SB 120 is limited to delivering any real change while possibly incentivizing small employer groups to migrate. Highmark Delaware asks that SB 120 incentivizes primary care providers and not Medicaid members due to the low reimbursement rate creating greater access issues for this population. Highmark Delaware continues its efforts toward moving primary care into value-based reimbursements. Pamela Price provided written testimony which is attached at the end of this document.

**Senator Sokola** recognized Christine Schiltz.

**Christine Schiltz** represents America's Health Insurance Plans (AHIP). AHIP believes mandating rate reimbursement levels to providers and proposing cost-shifting between providers negates the advances Delaware has achieved. Moving to value-based care does not adequately address quality. The principles of shifting the cost of mandatory rate caps and mandating specified reimbursement rates are not based on value-based reform. Specifically, the legislation requires that health plans must file rates with specific limitations for nonprofessional services. These services include inpatient and outpatient hospital services and other medical services which include ambulance, vision, dental, durable medical equipment, and more. Specific payment mandates do not allow for flexibility in the future health care needs in the state and spending limitations could jeopardize plans as limits on spending growth may not be able to cover the mandated increases in primary care spending. We believe primary care and value-based reform should build on the work that is undertaken by the OVBHCD to work with plans to invest in primary care and alternative payment models.

**Senator Sokola** recognized Wayne Smith.

**Wayne Smith** is the president of the Delaware Hospital Association. During the p Pandemic, 47 hospitals have closed or filed bankruptcy around the nation in 2020. Fortunately, Delaware's hospitals have been able to stay open while keeping people safe or recover from COVID. SB 120 will not expand primary care in Delaware. This legislation is advocated for by small primary care physicians who want to be paid more by insurance companies. Willingness to accept Medicaid is an example. A report from 3D Health Incorporated shows 90% of Delaware primary care providers take new Medicaid patients. Only 40% of independent primary care physicians take new Medicaid patients. Delaware hospitals collectively lose \$30 million a year providing primary care services. That deficit needs to come from other services hospitals can bill insurance companies for. This bill would cap the transfer of money from hospitals to meet the desires of bill proponents. We support making changes to primary care and value-based care, but taking money away from the safety net, health care, and primary care providers will harm access and health, not help it.

**Senator Sokola** recognized Ryan Forman.

**Ryan Forman** Vice President of Finance for Nemours in the Delaware Valley. Nemours fully supports adequate funding to primary care providers in Delaware, but not through the rate capping of other providers. Nemours believes high-quality and accessible primary care is foundational for achieving the goal of developing the healthiest generation of children. Nemours has made significant investments towards that goal by investing in primary care and in developing the Delaware Children's Health Network. In Rhode Island where a similar policy was implemented a decade ago, the quality and quantity of primary care providers remained unchanged. Nemours does not support SB

120. This is not a primary care bill. It is a price control bill. It would not solve the problem bill sponsors seek to solve.

**Senator Sokola** recognized Susan Conaty-Buck.

**Susan Conaty-Buck** represents the Delaware Coalition of Nurse Practitioners and is a faculty member at the University of Delaware's school of nursing. Delawareans are losing access to primary care because clinicians are leaving the state. Many are frightened because they know they need care and cannot receive it. As a faculty member, Susan Conaty-Buck sees fewer nurse practitioners choosing to practice in Delaware following graduation. The Delaware Coalition of Nurse Practitioners ask that Senators support SB 120.

**Senator Sokola** recognized Meredith Tweedie.

**Meredith Tweedie** is the Vice President of Government Affairs for Christiana Care. Christiana Care supports 90% of the language presented in SB 120. They support the objectives of the bill and the concept of increasing primary care spending. Christiana Care hopes to get to a point where the conversation does not have to be about doctors versus hospitals. They are happy to work on the language regarding the things it is concerned about. Meredith Tweedie provided written testimony attached at the end of this document.

**Senator Sokola** recognized Jonathan Kirch.

**Jonathan Kirch** is an unemployed health advocate. He commended the hospital organizations for being transparent and candid. Dr. Fan stated no one wants to increase the total cost of care, which is untrue. The American medical system is continually creating higher costs and enjoying higher profits, and this should stop. Jonathan Kirch is neutral on the bill, but believes this an instrument to favor one group and will not restrict the total cost of care. We have to do a lot more to transform healthcare. This bill is fine but will not fix the problems.

**Kris Hathaway**, America's Health Insurance Plans, in conjunction with Christine Schiltz, provided written testimony attached at the end of this document.

**Nina Anderson**, Primary Care Subcommittee, provided written testimony attached at the end of this document.

**Dr. Robert Walter**, Brandywine Pediatrics, provided written testimony attached at the end of this document.

**SB 120 – Reported out of Committee – 3 (Sokola, Townsend, Hansen) =Favorable, 1 (Lockman) = on its Merits, 0=Unfavorable**

**Senator Pettyjohn** motioned to adjourn the meeting and **Senator Townsend** seconded that motion.

**Senator Sokola** adjourned the meeting at 4:06 p.m.

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\*Meeting minutes approved on Wednesday, May 12, 2021 on a motion by Sen. Pettyjohn, seconded by Sen. Lockman, and with no objection from members of the committee.

**Comments for Senate Executive Committee Meeting April 28, 2021 – James Gill, MD**

My name is Jim Gill

I am a family physician and owner of a practice that cares for about 8000 patients in Wilmington and Newark.

I'm here to tell you why SB 120 is important and urgent

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Primary care physicians are leaving the state, retiring early, or going to "concierge" medicine

Few new physicians are going into primary care practice, and the same is true with nurse practitioners and physicians' assistants

This leads to poor access to care for our citizens, but also poor quality and high cost.

3 yrs ago we passed SB 227, which threw a small life preserver to primary care. It kept some primary care providers in practice. But others have continued to close or go to concierge medicine, leaving tens of thousands of Delawareans without access to basic care.

That's because SB 227 was designed to be a short-term stop gap, not fix the problem.

SB 120 fixes the problem.

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SB 120 requires that we gradually increase funding for primary care, to levels recommended by all national experts.

This has already been done by other states with great success.

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Rhode Island began 12 years ago doing very similar to what SB 120 proposes. It resulted in improved access to care, with 18% reduction in cost of care in the first 4 years.

Oregon followed, also finding improved access with reduced cost.

Vermont, Connecticut, Colorado, and others are doing similar, with similar success.

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If this bill doesn't pass now, Primary Care providers in Delaware will continue to do one of 3 things, all of which are bad for Delawareans:

1) Close their practice

- 2) Move to a concierge model, OR
  - 3) Give their practice to a hospital system, which results in higher cost but no improved quality or access
- 

If we pass this bill now, Delaware will see what other states that passed similar legislation have seen:

- 1) Improved access to care,
- 2) Improved quality and outcomes
- 3) Lower costs of care

Thank you very much





SENT VIA EMAIL:

April 28, 2021

TO: Members of the Delaware Senate Executive Committee Members

RE: SB 120 Relating to Primary Care Services

Dear Members of the Senate Executive Committee,

On behalf of Highmark Blue Cross Blue Shield Delaware ("Highmark Delaware"), I want to offer comments on SB 120 relating to primary care services. Noted here are the elements of the legislation reviewed and our comments.

#### Establishing a Percentage of Total Spend

- This bill sets mandatory spending rates for primary care but includes no mechanism to manage overall health care spend. As the total cost of care continues to become more expensive in Delaware, primary care spend will increase regardless of the quality or level of primary care services being provided to Delawareans. Effectively, this proposal will simply increase health care spending/costs in Delaware.
- Increasing Primary Care Provider (PCP) spend from 4.5% of total medical costs to 11.5% by 2025 is unachievable without price increases to members and employers. In order to achieve this target PCP spend, one of the following needs to occur:
  - a) PCP unit costs would need to increase by more than 25% per year; or
  - b) Non-PCP costs would need to be reduced by more than 50%.
- The objective of the bill is unclear and lacks accountability to control costs or increase quality of PCP services for Delaware residents.
  - c) If the spending targets are achieved, fully insured members and groups will likely pay higher premiums, as there are no offsetting savings.
  - d) Improved quality of care to the member is not addressed or required.
  - e) Higher reimbursement to PCPs may also lead to higher member cost sharing, particularly where a member's cost share for the service is based on a percentage of the rate charged by the provider.
  - f) The bill posits that a higher proportion of spend on PCPs will lead to better management of costs, but there is no accountability to delivering savings or identification of how this will happen.
- Both cost and quality needs to be tied to any increase in spend.

#### Rate Regulation:

- The proposed revisions to the insurance rate laws are a significant departure from the current standards for making and approving rates. One of the guiding principles in Delaware's insurance rate law is that rates cannot be excessive, inadequate or unfairly discriminatory. We believe it is an inherent flaw to set PCP rate spend while prohibiting insurance rates from accounting for overall

PO Box 1991 · Wilmington DE 19899-1911

[www.highmarkbcbsde.com](http://www.highmarkbcbsde.com)

Highmark Blue Cross Blue Shield Delaware is an independent licensee of the Blue Cross and Blue Shield Association

health care costs. Such a prohibition will likely result in inadequate rates, leading to market instability.

- Because only 30% of the market is impacted by this legislation due to the already high number of self-funded arrangements, this legislation has limited ability to deliver any meaningful change while incenting small and large fully insured employer groups to migrate to self-funded arrangements.
- Unit price growth for health care services is driven by factors beyond Highmark Delaware's control.
- The limits on unit price growth for non-professional services will be insufficient to cover the legislation's mandated increases in primary care spend.
- This legislation usurps the judgment of the DOI and its actuaries as to what constitutes an adequate rate by dictating that rates including certain levels of price growth for nonprofessional services cannot be approved regardless of whether the price growth for these services actually occurred.
- Because this legislation limits carriers from including recognition of expected and/or actual contractual costs in their rates, the legislation will likely be a barrier to increased carrier competition in Delaware's ACA markets.
- Provider contracts are multi-year and will need to be adjusted over time. Implementing any provider contract changes to account for the cost limitations will require long-term planning and negotiation with providers. Like primary care, any investment in these services and others must seek to improve quality while controlling cost.

**The Health Care Commission shall monitor the uptake and compliance of primary care providers with value-based care delivery models and may review and incorporate the affordability standards:**

- The affordability standards need to occur simultaneously, therefore oversight should fall under one regulatory body – the DOI. Given the DOI's regulatory authority over payers, their responsibility for ensuring rates are actuarially justified, and their investment in the OVBHCD, which Office itself is within the DOI, compliance oversight should remain within the DOI, not the DHCC.

**Other Considerations:**

- Access to primary care services will be enhanced with the likely passage of HB 160, Relating to Preserving Telehealth and Adopting the Interstate Medical Licensure Compact.
- This legislation may incentivize PCPs to not accept Medicaid members due to the lower reimbursement rate, creating greater access issues for this population.

**Recommendations:**

- Remove the specific requirements of and limitations on insurance rate filings from the legislation to allow the DOI to use actuarial standards and adjust appropriately during unforeseen events, such as a pandemic.
- Remove PCP spend requirements.
- Create a grant program for independent primary care practices using funds from the latest federal government Covid-19 relief package.
- Enact and fully fund the primary care student loan repayment program (HB 48 w/ HA1).

Highmark Delaware appreciates the need to invest in primary care services while also addressing the total cost-of-care. We cannot address primary care alone. Value based arrangements require collaboration and partnerships with payers and providers across the continuum of care aimed at improving the experiences of patients and providers while increasing quality and decreasing the total cost-of-care. Highmark Delaware works towards these partnerships on behalf of all whom we serve as part of our core mission and vision.

Sincerely,

Pamela Price  
Senior Government Affairs Representative  
Highmark Delaware  
800 Delaware Ave  
Suite 953  
Wilmington, DE



April 28, 2021

The Honorable Bryan Townsend  
Senate Majority Leader  
Delaware General Assembly  
Submitted by email to  
Bryan.Townsend@delaware.gov  
Valerie.McCartan@delaware.gov

Re: Senate Bill 120—Relating to Primary Care Services

Dear Senator Townsend,

Thank you for the opportunity to comment on Senate Bill 120, and for your continued leadership and commitment to expanding access to primary care in Delaware. ChristianaCare fully supports the objectives of expanding access to high-quality, high-value primary services, which are critical to ensuring better health outcomes for those we serve. As we have shared in our comments and written submissions to the Primary Care Collaborative over the past 2.5 years, ChristianaCare has invested heavily in expanding access to high-quality primary care services in the State of Delaware, and we remain deeply committed to identifying opportunities to provide additional resources, support and partnership to independent primary care physicians in the community in their transition to value-based care.

While we full support the objectives and many of the components of this legislation, including establishing targets for increasing primary care spending in Delaware as a percentage of the overall health care spend and monitoring the uptake of advanced alternative payment models, we do not support the concept of establishing statutory caps on payer and provider rates in the commercial insurance market. We continue to believe that rate caps are a very blunt instrument that are not appropriate to address the long-term needs of Delaware's health care system. We remain deeply concerned that the rate caps in SB 120 may compromise our ability to meet our community's needs, including continuing to respond to the Covid-19 pandemic, training our next generation of primary care physicians and health care workers, and addressing significant unmet needs in our community, in areas including housing, behavioral health, substance use disorder treatment, and maternal and infant mortality.

We greatly appreciate your willingness to consider potential amendment language or alternatives to address our concerns with the rate caps language while preserving the other important components of this legislation. We look forward to continuing these discussions with you and the other sponsors of this bill, and we hope to identify a path forward that meets the

State's primary care and value-based payment needs and addresses the concerns that we have identified.

Thank you again for your leadership and for the opportunity to comment on SB 120.

Respectfully Submitted,

*Meredith S. Tweedie*

Meredith Stewart Tweedie, Esq.  
Vice President Government Affairs and Policy, Senior Counsel  
302-382-7882 (mobile)  
Meredith.S.Tweedie@christianacare.org



America's Health Insurance Plans  
601 Pennsylvania Avenue, NW  
South Building, Suite Five Hundred  
Washington, DC 20004



VIA E-Mail

April 27, 2021

Senate Executive Committee  
Delaware State Senate  
411 Legislative Avenue  
Dover, DE 19901

**Re: Senate Bill 120 – Primary Care Legislation**

Dear Senators Sokola, Townsend, Lockman, Hansen, Hocker and Pettyjohn,

On behalf of America's Health Insurance Plans (AHIP) and its members, we appreciate the opportunity to offer comments on Senate Bill 120 regarding reimbursement guidelines of primary care providers within the Delaware health care system.

Senate Bill 120 proposes that by 2025, a health plan must spend at least 11.5% of its overall health care spending on primary care. It requires movement towards value-based reimbursement contracting and expands the Department of Insurance's regulatory authority over inpatient hospital and other nonprofessional services rates. AHIP believes that mandating reimbursement levels for any type of provider negates the advances Delaware has achieved shifting to a value-based healthcare system.

The legislation does not consider the great progress Delaware has made with strengthening its healthcare system and innovative steps on fully implementing value-based care so that quality, access, and the promotion of patient-centered care remain the focal point for the state. The Department of Insurance, through its Office of Value-Based Health Care Delivery, is working with all health plans in the state to increase value-based health care and provide greater investment in primary care services. Therefore, proposing a cost shift from other providers and facilities within the health care system would negate the value-based care healthcare system altogether.

The principle of cost shifting, mandatory rate caps, and required specified reimbursement rates is not based on market-driven ideals but instead requires rate regulation, favoring primary care providers over other provider groups. **Specifically, lines 122 – 153 of the legislation require that health plans must file rates with specific caps on unit growth prices for non-professional services.** These services include inpatient hospital services, but also other medical services such as non-capitated ambulance, home health care, durable medical equipment, prosthetics, supplies, vision exams, dental services, and other services. The rate caps are also applicable to outpatient hospitals for emergency services, lab, radiology, therapy, and other services provided in an outpatient facility. Additionally, lines 154-177 mandate that health plans shall spend at least a certain amount of their overall cost of care on primary care, resulting in spending of at least 11.5% of overall care spending by 2025.

Specific payments made to one type of provider does not allow for flexibility should it be required. Such questions should be asked - what if a separate public health crisis arises and we need to spend more on a certain specialist, or what if more allocations need to be made on treatment of behavioral health or substance abuse treatment? What if these spending limitations cause actuarial soundness issues within a company? There is no flexibility included in the legislation and could jeopardize the financial soundness of a health plan in the state, particularly given the expansive list of facilities and services subject to the rate limitation.

The proposed legislation bifurcates the regulatory oversight over health plans between the Health Care Commission and the Department of Insurance (DOI). The bureaucratic red tape that would ensue and the

April 27, 2021  
Page 2

wasted dollars on duplicative administration by the state are wholly inappropriate. The DOI needs to have singular oversight over Affordable Care Act compliant health plans operating within the state; reviewing carriers' actuarial soundness and rates, performing market conduct reviews, and following up on any consumer driven questions or complaints. We support the work undertaken by the Department of Insurance's Office of Value Based Health Care Delivery to work with plans to invest in primary care and more alternative payment models. We believe the legislation should allow this work to continue under the regulation of the Department of Insurance.

The proposed legislation would only apply to those fully insured commercial plans and those individual plans in the state marketplace, which account for approximately 30% of the health insurance marketplace in Delaware. It exempts the state employee plan and Medicaid plans and would not apply to those self-insured plans governed by ERISA. We are not certain how imposing these requirements on 30% of the insurance marketplace will assist primary care providers. We believe the focus of primary care reform in Delaware should build on the work that has occurred on moving to value based reimbursement, while providing financial support to independent practitioners perhaps by utilizing funding from the federal American Rescue Plan.

We appreciate your consideration of these comments and encourage continued discussion among all the various health care stakeholders within The First State. Please contact me at [khathaway@ahip.org](mailto:khathaway@ahip.org) or 202.870.4468 should you have any questions or concerns. Thank you for your time and attention on this critical matter.

Sincerely,



Kris Hathaway  
Vice President, State Affairs  
America's Health Insurance Plans

cc: Valerie McCartan

**America's Health Insurance Plans** is the national association whose members provide insurance coverage for health care and related services. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access and well-being for consumers.



## Primary Care Practices are Imperil

Members of the Primary Care Subcommittee

Loosing primary care providers (PCPs) a trend likely to continue without legislation to better fund the infrastructure for access to primary care in Delaware. In 2018, there were 815 Primary Care Physicians in Delaware and since COVI19, a 20% drop Primary Care practices. 86% of primary care providers were accepting new patients in 2013, and now 82% of primary care providers are accepting new patients.

Sadly, Doctors are leaving independent practices- due to mounting demands from complex patients, low insurance reimbursement rates for services rendered and administrative costs. Low payment rates from doctors are forcing- PCPs to retire early, leave the profession, go to work for the hospital system or go into concierge medicine- \$1000-\$1500/year annual fee which is out of pocket. Though Nurse Practitioners, like myself, are filling the gap to improve access to care, the underlying economic burdens of independent practice small businesses still remain.

Insurance SB 227- requires insurances pay doctors as much as Medicare pays for primary care services. But, nationally, PCP spending for insurance plan is 6-8% but is 3-4% in Delaware. Before SB 227, insurers were paying Delaware primary care providers 15-35% less than Medicare.

40% of KCCO Doctors, 30% of SCCO Doctors and 22% of NCCO Doctors will not be practicing in the next 5 years. A quarter of Kent Country Doctors are over 65.

Health care spending per capita in Delaware is higher than the national average. Historically, health care spending has outpaced inflation and the state's economic growth. Health care costs consume 25% of the state's budget - approximately \$1 billion/year.

The COVID19 pandemic has increased demand for health care, as well as, exposed the inefficiencies in the PPE supplies. This in combination has lead to 25% greater historical spend per capita than the U.S. as a whole, which itself has among the highest cost health care systems in the world. While we spend more on care, our investments have not led to better health or outcomes for Delawareans. We spend and spend on expensive care; without better access to high quality care. Thus, we tread on by simply addressing the challenges of an older and sicker population. We Must Act Now and pass Insurance SB 120.

In full support with the Medical Society of Delaware,

Nina Anderson, DNP

TOVA Community Health

Primary Specialty Care Founder

Named Delaware Woman-Owned Small Business of the Year



As a long time pediatrician at Brandywine Pediatrics and Delawarean I urge you to support Senate Bill 120 to help save primary care in Delaware - particularly independent primary care practices.

Over the decades I've been involved in many efforts to improve the lives of children in Delaware including testifying in Dover, but this is the first time I find myself advocating for my fellow primary caregivers. Primary care in Delaware is hurting and we need help.

As the former Director of the Dupont Hospital for Children's Pediatric Residency Program and Assistant Director of the Christiana Medical Pediatric program (before going into private practice) I've seen firsthand how in the past two decades more and more graduates are turning away from primary care because it is so underfunded and undervalued, starting with the compensation we receive for our services.

It is uniformly accepted that primary care is the backbone of our healthcare system and that patients with primary care physicians have better outcomes and lower costs. Yet only 4.5% of the total medical spending in Delaware goes to primary care, which is less than half of what is recommended as best practice. As costs of medical care skyrocket, it is clear that this is driven by inpatient/outpatient hospital services and not primary care. Payments to Delaware practitioners have increased 0.5% per year, while hospital costs rise 3 to 4% per year

Chronic underfunding of Delaware primary care has taken a toll in the ability for Delawareans to find a primary care physician. It's very difficult for us to recruit new pediatricians in our area. Compared to when I was residency director in the 1990s, it's astonishing how many more new graduates go into hospital subspecialties instead of primary care - I know my internal medicine colleagues see the same thing. Personally, my own internist, in the prime of his career, closed up his shop in Brandywine Hundred this summer because he just couldn't make the numbers work. Others go into Concierge Medicine which takes some of the best primary care physicians out of the running for most Delawareans and also reduces the number of patients seen per primary care physician. Community docs are aging and many are retiring early, and the bench is thin. All of this leads to less access to primary care and worse health outcomes, again driven by poor reimbursements in Delaware.

It's sad to me that the two major health systems with which I am on staff, the Dupont Hospital for Children and Christiana Care, are not supporting this bill. To be generous I would guess that they feel that any increase spending for primary care would come out of their programs, BUT there are no cuts to their earnings, just reasonable limits on future spending to support primary care. If they truly want to support better health for all Delawareans, it's a no-brainer to me they should support better funding for primary care.

We are a small state with a few very dominant hospital system players and given the current trends we are going to wake up to a time where every primary care physician is salaried with one of a few hospital systems with little competition, using primary care as a loss leader to fund costly inpatient and outpatient hospital programs. That should not be the Delaware way.

We independent primary care docs do not have lobbyists and are not that sophisticated in the inner workings of medical legislation, but I hope you hear our voices. I write this on a Sunday afternoon after seeing 20 kids this morning in my office and YES we're open every day and much of that time in full PPE urging things like COVID-19 vaccinations among the many things we do in primary care to prevent illness.

Passing SB 120 will help ensure that your favorite pediatricians and family practitioners and internists will be caring for Delawareans for decades to come, resulting in better health outcomes at less cost

Thank you

Sincerely

Robert S Walter MD

[Rswalter79@gmail.com](mailto:Rswalter79@gmail.com)

302 478 1885

Brandywine Pediatrics

Wilmington DE