

February 25, 2015

The Honorable Nancy Wyman
State Capitol
Hartford, Connecticut
Lt.Governor.Wyman@ct.gov

Re: Need for Adoption of Code of Ethics for SIM Committees and Councils

Dear Lieutenant Governor Wyman,

We, the undersigned independent advocates, are writing to ask that the state Healthcare Innovation Office and the State Innovation Model (SIM) follow the Connecticut [Public Officials and State Employees Guide to the Code of Ethics \(“Code of Ethics”\)](#), to protect the integrity of both SIM contracting and larger health reform efforts in Connecticut. The Affordable Care Act and Connecticut’s SIM grant offer historic opportunities to reform our health system but also come with great responsibilities for the state. Effective reform requires confidence and trust across all stakeholders. A strong ethics policy, that avoids even the perception of impropriety, is critical to success.

As intended, SIM will be making profound changes to the way health care is delivered and paid for, affecting every state resident. SIM committees are planning very specific standards for health care quality, access, aligned incentives to reward value, care coordination, and consumer protections. The state will be distributing millions of federal and state grant dollars based on explicit decisions by SIM committees. Many of these detailed decisions have already been made by SIM committees. It is critical that the state prospectively ensure that those efforts are not tainted by conflicted interests. Affirming a strong ethics policy **now**, early in reform efforts, ensures that the rules are clear at the outset and will prevent conflicts in the future.

Connecticut must avoid previous difficulties involving conflicted interests, such as have afflicted the AccessHealthCT Board membership, as we venture into much more extensive system reform. It is unacceptable for anyone to serve on a Board, advocate and vote for relaxed industry standards and non-competitive procurements, and later benefit from those very decisions personally, either in subsequent employment or through personal investments.¹

Connecticut’s Code of Ethics covers state contracting now, preventing inappropriate use of state and federal pass-through funds. SIM has already stipulated that SIM’s

¹ “Advocates Question Investments of Exchange Board Members,” *CT News Junkie*, Sept. 28, 2012; “Harvard Pilgrim Hires Former ConnectiCare CEO, Health Exchange Board Member Mickey Herbert,” *Hartford Courant*, January 7, 2013.

Consumer Advisory Board members are public officials.² The Code of Ethics has been in state law since 1977. The Guide was developed and is regularly refined by ethics professionals over the years to protect the state's integrity. The Code excludes anyone who serves in a position to set standards for state regulation or funding from personally benefitting from those standards or disadvantaging their competitors. These are sensible provisions that Connecticut residents have a right to expect from our government.

Unfounded concerns have been raised that applying the Code of Ethics to SIM will exclude valuable stakeholders' input into SIM policies and decisions. It has been suggested that it is sufficient to separate development of standards and budgets in committees from technical application drafting. However, committee decisions may have already created a competitive advantage for some members. Human nature and the natural affinity of committees necessary to function make it difficult for recusal or the self-declaration of conflicted interests to serve as a serious deterrent. In either case, the perception does not build confidence in the integrity of Connecticut's health reforms.

Every day, state and federal agencies successfully manage to incorporate real-world input into policies while maintaining ethics, applying the Code of Ethics and similar guidelines. Stakeholders routinely give significant input, review and comment on drafts, and give testimony on policy proposals but with all final actions being left to independent decision makers with no personal financial or other stake in the outcome.

The federal Food & Drug Administration's advisory committee structure offers an exceptional model of engaging critical stakeholders while ensuring the integrity of recommendations. Advisory committee members pass extensive checks for conflicting interests regarding themselves, their employers, and their families both for initial membership and for each meeting. Committees include consumer and patient representatives as voting members, as well as academic and clinical experts in the field. Pharmaceutical companies sponsoring medications give an extensive presentation at each meeting and are available to answer questions, but they **do not have a vote** on **any** decisions by this committee. Each committee includes one non-voting representative of a non-competing pharmaceutical company who participates and informs committee discussions, but **does not vote**.

Other options for SIM to engage critical stakeholder input while complying with the Code of Ethics include recruiting providers who have retired from practice or are currently employed in non-practice settings, independent consumer analysts and advocates who agree not to accept SIM or other conflicting funding as committee

² This was stated in response to a Freedom of Information complaint, filed November 4, 2014, regarding non-public meetings to discuss personnel matters. The complainant is not disputing that CAB members are public officials, only that the statutory process was not followed in holding a non-public meeting.

members, and, if necessary, hiring consultants with the required expertise. State agencies procuring highly technical services or setting complex regulatory standards often engage independent expert consultants with the understanding that the firm cannot apply for any related funding.

No SIM committee can possibly contain within its membership all of the wisdom needed to accomplish effective health reform; outside stakeholder input is critical. But this can be, and routinely is, done without compromising ethical standards, by applying the Code of Ethics. We also are happy to discuss options, in addition to adopting the Code of Ethics, to ensure that SIM is able to engage diverse views across Connecticut's health care system, while protecting the integrity of the process and the eventual reforms. No one wants effective health system reform more than the consumers who both pay for care and depend on it for our health.

As independent consumer advocates, we reaffirm our commitment to support constructive health care reform in our state. Thank you for your attention and your commitment to the health of every Connecticut resident.

Sincerely,

Ellen Andrews
CT Health Policy Project
SIM Equity and Access Committee member

Kate Mattias
NAMI Connecticut

Shirley Girouard
SIM Practice Transformation Committee member

Tom Swan
CT Citizen Action Group

Kristen Noelle Hatcher
CT Legal Services
SIM Equity and Access Committee member