



Statement of Phyllis Salowe-Kaye, Executive Director in Support of S-2532

Concerning the process by which a health service corporation may convert to a for-profit, domestic insurer; requiring the completion of a Fairness Analysis (health impact study)) of a proposed conversion, and insuring at least four public hearings on any proposed conversion and accompanying foundation plan.

Before the NJ Senate Commerce Committee

March 9, 2009, Trenton, New Jersey

Good morning, Chairwoman Gill and members of the Committee. My name is Phyllis Salowe-Kaye and I am New Jersey Citizen Action's Executive Director. Thank you for giving us this opportunity to testify in support of S2532. Citizen Action is the State's largest, independent citizen watchdog organization, representing more than 100 labor, tenant, religious, community, women's, environmental, civil rights and senior organizations and 60,000 family members who live throughout New Jersey. For our entire organizational history we have worked to improve the quality of life for NJ's working families and seniors including fighting for guaranteed access to high quality and affordable health care for every resident.

We commend Senator Weinberg and the bill's co-sponsors for their leadership on this important legislation that seeks to protect Horizon Blue Cross and Blue Shield's policy holders, NJ consumers in general, particularly low and moderate income families and other vulnerable populations, and the health status and economy of our entire state. The bill, as you have and will hear, does not take a position for or against the current application Horizon has filed with NJ's Department of Banking and Insurance and the Attorney General. Rather this bill is about making sure government does its job well and does right by our entire state.

Today, I testify in support of this bill on behalf of NJ Citizen Action and the NJ Horizon Watch Coalition, a broad-based alliance of 25 health care, consumer, small business, labor, senior, faith-based, student, disability, civil rights and social justice organizations working to ensure that the examination of the proposed conversion takes place in accordance within both the spirit and full letter of the law; and that this examination not take place behind closed doors.

A list of the Coalition's members is attached to my testimony. You will also be hearing from some of our partners today.

NJ's Horizon Watch Coalition came together in support of four principles:

1. The Commissioner of the Department of Banking and Insurance shall retain qualified independent experts to evaluate whether Horizon, even as a non-profit, has adequately met the health insurance needs of low- and moderate-income individuals and families, (who are likely to have difficulty finding affordable and quality health insurance), and to study the impact of the proposed conversion on the health status of all State residents, the ability of providers to negotiate payments with Horizon and insurance premiums, particularly in certain sub-markets such as Medicaid, small employer and individual health markets and with regard to consumers with special health care needs.
2. The process of determining whether the conversion is in the public interest and should be permitted, including Horizon's true value, and the structure of the proposed conversion, must occur with appropriate public participation, including regional public hearings -- not

behind closed doors. The public must be given standing to participate in all regulatory and legal decisions and must have access to all the information needed to evaluate the proposed transaction.

3. If conversion is determined to promote the public's interest, the Commissioner and the Attorney General shall be required to transfer the full fair market value of Horizon's charitable assets to a nonprofit foundation, as currently provided by law to be used to expand access to affordable quality health care for all New Jerseyans.
4. The goals and criteria for grant making of a new charitable foundation shall be developed in a public process, and its governance shall be free from conflicts of interest with Horizon, other for-profit health care companies and, most importantly, the State. Funds can be used to expand current government health programs, but cannot be used to replace current obligations, or obligations that would have been incurred absent the conversion.

S2532 clarifies existing state law governing the review, approval or rejection of a proposed conversion of a non-profit health insurer to a for-profit company to ensure a fully transparent, deliberative and thorough examination of the application's impact on our entire system of health care, (and thus our economy), and to ensure policyholders, health care consumers, providers and taxpayers have meaningful opportunity to engage in this process. Such a process is of utmost importance. For as we know, if an application is approved, there is no going back.

S2532 protects the public three important ways:

1. Requires the State to hire an independent expert to conduct a Fairness Analysis (also known as a “health impact study”) to evaluate the impact of the proposed conversion on the health status of all NJ residents. A Fairness Analysis is needed to determine if the conversion promotes the public interest and is fair and equitable.

An independently conducted Fairness Analysis does not usurp or undermine the Insurance Commissioner’s authority to approve or reject an application. Rather, the Analysis is just one, albeit crucial, piece of the information and analyses used by the Commissioner and the public to make an informed decision regarding the merits of the proposed conversion. This is not a new or novel idea. In recent years Insurance Commissioners from other states have utilized such analyses as part of their review processes when faced with similar applications. For example, former Kansas Insurance Commissioner and Governor Kathleen Sebelius, (recently tapped by President Barack Obama to serve as his Secretary of Health and Human Services), conducted such an analysis as did Maryland’s former Insurance Commissioner. In those states, the analyses provided important information about the consequences of a conversion for policy holders and consumers. Both states, after this careful and deliberative review, that also ensured full participation by affected parties, found that the proposals were not in their state’s public interest and denied the applications.

The Fairness Analysis will:

- Assess the impact Horizon’s conversion and most likely acquisition or merger would have on accessible, affordable, quality health care for consumers.

- Analyze Horizon’s proposed business plan and profit goals to determine whether they will adequately address the health care needs of the community. Examine issues associated with market share, market power and impacts on particular lines of business and policyholders, including those in the individual and small group markets.
- Assess the impact Horizon’s conversion and likely acquisition or merger would have on access to health care specifically for vulnerable populations such as children, seniors, and people with disabilities, low-income families, people with HIV and people with chronic illnesses.
- Determine if Horizon’s conversion plan would assure affordable and accessible services and products that will meet the community's needs.
- The cost of the analysis would be borne by the applicant, not the State.

2. Requires the State to hold a minimum of four public hearings, with at least one hearing each in the northern and southern regions of the State and at least two in the central region of the State, giving the public adequate opportunity to have a meaningful voice in the conversion process.

3. Allows interested parties and those directly affected by the proposed conversion to apply for intervenor status so that concerns about the public health impacts and the protection of nonprofit assets are raised and addressed and that consumers have meaningful access to information in order to be fully able to participate in the review process.

S2532 is needed to protect policyholders and consumers and to give direction to the Department of Banking and Insurance and the Attorney General, a most appropriate role for the Legislature. After reviewing the State's Requests for Qualifications (RFQ), Requests for Proposals (RFP's) for four outside contractors and the October 14, 2008 letters sent by DOBI and the OAG to Horizon deeming the application incomplete and requesting more information, the Horizon Watch Coalition believes such direction is urgently needed. Our review of these documents led to our conclusion that the State is not taking the necessary steps to fully evaluate the range of health impacts presented by the proposed conversion. We formally requested the Department conduct a Fairness Analysis and provided information on what questions such an analysis will address, (see attached). In a letter to NJ Citizen Action and the NJ Horizon Watch Coalition dated February 5, 2009 , DOBI Commissioner Steven Goldman informed us he does "... not intend to engage a consultant for that purpose." As recently as last Thursday, March 5th, DOBI and OAG staff again informed members of the Horizon Watch Coalition that while it is *possible* that the Departments may engage in such an analysis and hire the appropriate experts, they are not willing to make a commitment to do so at this time. ***We simply ask why you wouldn't.***

NJ law (Chapter 131) requires that Horizon's conversion application can only be approved if it promotes the public interest and is fair and equitable. To determine whether or not conversion is in the public interest, policyholders, consumers, providers and taxpayers must know whether or not a for-profit Horizon insurance company will help or hurt our health status on a broad range of indicators, including cost and quality of coverage, and consumers must be given the opportunity to have a real voice in the conversion review process. To do this, NJ, like other states who have faced these questions, must hire an independent expert to conduct a fairness

analysis to determine these impacts. Additionally, the public must be afforded the broadest possible opportunity to voice our views and have access to the information being gathered by our public servants.

S2532 is a necessary step in ensuring that the health and wellbeing of New Jersey residents is promoted and served. We respectfully ask members of the Committee to support this important legislation and vote the bill out of Committee for a vote on the Senate floor.

Thank you for your careful consideration of this matter and I am available to answer any questions you may have.