



Testimony For the Record of

Chris Deacon, J.D.

Founder

VerSan Consulting, LLC

Former Director of State and School Employee Health Benefits Programs

Advisor to Patient Rights Advocate, Power to the Patients, Health Rosetta

For the

Subcommittee on Health, Employment, Labor, and Pensions

Hearing On

“Lowering Costs and Increasing Access to Health Care With Employer-Driven Innovation”

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The Honorable Bob Good
Chair, Subcommittee on Health, Employment,
Labor, and Pensions
461 Cannon House Office Building
Washington, DC 20515

The Honorable Mark DeSaulnier
Ranking Member, Subcommittee on Health, Employment
Labor, and Pensions
503 Cannon House Office Building
Washington, DC 20510

Dear Chair Good and Ranking Member DeSaulnier;

I am writing to voice my strong support for the committee's ongoing evaluation of the Lower Cost More Transparency Act and to present my testimony grounded in my extensive background in public sector health administration, policy expertise and legal background.

In my tenure as the former director of the State Health Benefits Program, I was entrusted with the stewardship of over \$7 billion in taxpayer and public funds annually. This role was not just administrative; it was a commitment to over 800,000 public servants whose lives and well-being depended on the judicious management of these funds. The fiduciary responsibility to manage such a substantial health plan required meticulous oversight, strategic planning, and above all, access to comprehensive data to ensure the effective and efficient use of every dollar. The absence of transparency within the current healthcare system greatly impedes the ability of plan administrators to enact cost-saving measures, safeguard quality care, and ultimately, honor the trust placed in them by the public and the employees we served.

My perspective on the healthcare crisis is further informed by my experience as a career federal bankruptcy clerk for the Chief Bankruptcy Judge in the District of New Jersey. There, the abstract statistics of medical debt materialized into the poignant stories of individuals and families whose lives were upended by an unforeseen illness. The courthouse was a stark reminder that behind every filing were real people facing the loss of not just their financial security, but their dignity. This experience has humanized my approach to healthcare policy and ignited my passion for reform. Transparency in healthcare pricing is not just a financial imperative; it is a moral one, where the clarity of information can be the deciding factor between recovery and ruin for millions of Americans.

With these personal and professional experiences fueling my conviction, I assert that the need for healthcare price transparency is dire and immediate. The Lower Cost More Transparency Act is a pivotal step towards a more just and accountable healthcare system. It represents hope for those I've seen devastated by medical debt and a beacon for a future where health crises do not precipitate financial despair. In my role overseeing New Jersey's SHBP, state's access to certain types of healthcare data was instrumental in driving strategic decisions that resulted in hundreds of millions of dollars in savings over the years. But this number could have been dramatically larger, if we were unconstrained by the pervasive lack of transparency in the healthcare system. Despite our relative advantage, due to the state's considerable bargaining power, it was evident that most employers do not share this leverage. They are left navigating a system where the obscurity of healthcare pricing and coverage options stifles their ability to negotiate better terms or manage their health plans effectively. This disparity highlights a system-wide issue that affects not only the financial stability of these plans but also the health outcomes of their beneficiaries.

The impact of healthcare costs extends far beyond the state level. Nationally, 157 million Americans are covered by employer health plans, with an estimated \$1.3 trillion spent on employer-sponsored healthcare annually. The enormity of this expenditure underscores the critical need for a systematic overhaul to address the financial burden on both employers and employees. The Marist poll's revelation that 94% of Americans support system-wide healthcare price transparency speaks volumes about the public's recognition of this issue and their demand for change.

As we look toward enacting meaningful reforms, I propose the following detailed recommendations for the Lower Cost More Transparency Act:

- **Enforcement of Penalties for Gag Clause Violations:** It is essential that the legislation includes a framework for imposing significant penalties on plans, issuers, and third-party administrators that fail to adhere to gag clause restrictions. These penalties must be compelling enough to prevent entities from using their market power to enforce contract terms that stifle competition and conceal pricing information. Compliance with transparency regulations should be non-negotiable, and the consequences for violating these regulations must reflect the seriousness of such an offense.
- **Extension of Transparency Requirements to ACOs:** Accountable Care Organizations, particularly those serving Medicare beneficiaries, must also operate within a framework of transparency. As entities that receive substantial government reimbursement, ACOs should provide clear and honest pricing information, enabling beneficiaries to make informed healthcare decisions.
- **Accountability for Accurate Disclosures:** To ensure the integrity of information provided to consumers, we must include provisions in the legislation that hold issuers and plans accountable for the truthfulness of their disclosures. This should involve a certification process by which these entities verify the accuracy of the data they provide, with penalties for submitting false or misleading information.
- **Codification and Expansion of the TiC Rule:** The Transparency in Coverage rule must be codified into law to ensure its application across all commercial health coverage and to protect it from future administrative changes. Beyond codification, the rule should be expanded to improve the usability and comprehensiveness of the provided information, including machine-readable files that lay out a clear roadmap of pricing structures for consumers.
- **Enhanced Drug Price Transparency:** Drug prices remain one of the most opaque areas of healthcare pricing. This legislation should mandate enhancements to the availability and clarity of machine-readable files on drug pricing, ensuring that consumers and plan sponsors are fully informed of the true costs of medications.
- **Access to Essential Claims Data (835 and 837 Files):** Employers, as fiduciaries of their health plans, must be empowered with unfettered access to standardized electronic claims data, specifically 835 and 837 files. These files are the ledgers of healthcare, detailing what services were promised versus what was delivered. Without this granular level of data, employers cannot reconcile claims, verify the accuracy of payments, or ensure that they are fulfilling their fiduciary duties effectively. It is akin to asking a business to balance its books without access to bank statements or invoices. This data is the cornerstone of their ability to manage health plans prudently, avoid overpayments, and ensure that each dollar spent is truly advancing the health and well-being of their employees.
- **Transparency in Value-Based Billing Practices:** The term "value-based care" has become a lauded concept within the healthcare industry, yet it operates without a standardized definition or transparent practices. While we endorse the shift towards a model that incentivizes quality and outcomes, the lack of clarity and disclosure around what constitutes "value" is problematic. Employers often invest in these programs without a clear understanding of the incentive structures or evidence of the purported value. Without transparency in these arrangements, there is no assurance that such programs lead to improved health outcomes or cost savings. As such, our legislation must mandate that the terms, benchmarks, and results of value-based programs are openly disclosed to all stakeholders, especially self-funded employers who bear the financial burden. Only with this level of clarity can we assess the true impact of these programs and

ensure that the industry's move towards value-based care reflects more than a change in terminology—it must signal a meaningful transformation in care delivery and health economics.

- **Comprehensive Revisions to the Gag Clause Prohibition:** The current prohibition on gag clauses needs to be fortified. The legislation should extend the prohibition to include all relevant parties, such as TPAs that administer group health plans, and ensure that it encompasses clauses that limit the ability of health plans to audit their insurers or TPAs. Moreover, employers should be granted greater access to a range of data concerning their plans, including specific pricing and reimbursement structures, with legal protections that enable them to negotiate more effectively and realize financial benefits from such negotiations.

In closing, I wish to emphasize the indispensability of the triad of transparency: hospital and provider price transparency, transparency in coverage information, and unfettered access to claims data for employers. These are not isolated components but rather the foundational pillars necessary for constructing a healthcare market that operates with efficiency and competitiveness. Hospital and provider price transparency ensures that consumers and employers alike can see and compare the costs of care before services are rendered. Transparency in coverage information allows individuals to understand their financial responsibilities under their health plans. Access to claims data enables employers to act as prudent fiduciaries of their health plans. Devoid of any of these elements, our system will falter, inviting further opacity rather than achieving the intended luminosity of transparency. As we stand at the crossroads of healthcare reform, let us commit to erecting a market structure robust in its transparency and vigorous in its fairness, one in which every American can have confidence in the value and quality of their care. It is only by reinforcing all three pillars that we can aspire to a truly transparent healthcare system and avoid the pitfalls of partial solutions that lead to incomplete visibility and enduring inefficiencies.

I look forward to contributing to a dialogue that advances these principles and working alongside you to enact legislation that will bring about the comprehensive transparency that the American healthcare consumer not only expects but unequivocally deserves. I call upon the committee to adopt these comprehensive recommendations and to act with the urgency that the American people's healthcare and financial well-being demand. Let us work together to ensure that the healthcare system of tomorrow is not hindered by the opacity of today but is illuminated by the clear, transparent light of information and fairness.

I am ready and willing to engage further on these matters and to lend my expertise and experience in service of crafting a bill that meets these critical needs.

Warmest Regards,



Chris E. Deacon, J.D.
Principal and Founder
Versanconsulting.com