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Market Stability Workgroup

Date of Meeting: May 22, 2018
Meeting Time: 8:00 am
Meeting Location: Institute for the Study and Practice of Nonviolence
265 Oxford St
Providence, RI 02905

Workgroup Members Present: Cristina Amedeo, Stephen Boyle (co-chair), David Burnett (on behalf of Peter Marino), Al Charbonneau, Ralph Coppola, Rosemarie Day, Jane Hayward, Peter Hollmann, Chairman Joshua Miller, Teresa Paiva-Weed, Janet Raymond, Samuel Salganik, John Tassoni, Jr. (on behalf of Susan Storti), Larry Warner, Bill Wray (co-chair)

Workgroup Members Absent: Mia Ackerman, Gayle Goldin, Kim Keck, Joseph McNamara

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- I. **Meeting was called to order** at 8:04am by Co-Chair Bill Wray.
- II. **Minutes** from the May 15, 2018 meeting were approved unanimously.
- III. **Opening Remarks/Feedback**
 - a. Co-Chair Bill Wray said that the Commonwealth Fund survey was shared with the Workgroup by email. Additionally, he said, a summary of the impact that reinsurance could have on the subsidized population will be emailed shortly.
 - b. Director Sherman gave an update on the draft 1332 Waiver legislation. He said that the Rhode Island legislature has been provided with a copy of the draft legislation, and some of its members had reached out with a few technical questions. At this time, we are unsure when the draft legislation will be introduced.
 - c. Co-Chair Steve Boyle reviewed the syllabus for the remaining meetings. He then discussed the purpose of today's meeting and the agenda. He said the purpose of

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today's meeting is to determine whether the Workgroup members have any outstanding questions, concerns or requests for further information so that they are able to make a final recommendation at the end. Co-Chair Steve Boyle asked the Workgroup to provide input on both the process and format for developing the Workgroup's final recommendation in the form of a "white paper".

IV. Workgroup Discussion to begin to outline the Workgroup's possible recommendations and format for transmitting said recommendations

- a. Rosemarie Day led a discussion on outlining the Workgroup's recommendations. She began by reviewing the Workgroup's three guiding principles:
 1. Sustain a balanced risk pool;
 2. Maintain a market that is attractive to carriers, consumers and providers;
and
 3. Protect coverage gains achieved under the ACA.
- b. She said that while the objective today is to identify a preliminary recommendation of sensible, state-based policy options for RI that will be in service to the guiding principals, she wants to give the Workgroup members plenty of time to deliberate and review a written recommendation.
- c. Rosemarie Day discussed the key concerns that could destabilize the market. She said that an unbalanced risk pool could be created when healthier people exit the market. As riskier, costlier individuals remain enrolled, premiums will increase. Coverage gains will erode as younger healthier individuals exit the market, and new proposed federal rules around Short-Term Limited Duration (STLD) plans will usher in new, non-ACA compliant plans that will attract healthy individuals and further compromise the non-group/small business risk pools.
- d. Rosemarie Day recapped the activity in other states. In Massachusetts, an individual responsibility provision was enacted as part of 2007 health reform. The revenue is used to support affordability measures. In New Jersey, the individual responsibility provision passed state's legislature and is awaiting the Governor's signature. Revenue would support a reinsurance program. In the District of Columbia, individual

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- responsibility provision (IRP) legislation was introduced and is being considered by the City Counsel in late May 2018. The revenue would support affordability measures. The Vermont legislature passed a bill mandating health insurance coverage, but is convening a workgroup to decide whether to recommend approaches to penalty, qualifying coverage, and exemptions. In Maryland, legislation was enacted instructing an advisory commission to consider instituting an IRP.
- e. Rosemarie Day provided an overview of the policy options that the Workgroup had discussed during prior meetings. Policy options include the affordability “carrot” considerations: reinsurance program via 1332 waiver, state funded additional premium subsidies, and health insurance down payment. “Stick” considerations include: IRP, continuous coverage requirement and employer mandates. Insurance reform consideration include: consumer protections (annual/lifetime limits ban, Essential Health Benefits, dependents up to 26, pre-existing conditions, rating rules, etc.) and Statutory ban/stricter rules for STLD plans.
 - f. Rosemarie Day asked the Workgroup to consider three discussion questions:
 - 1. Do you think action is needed?
 - 2. Should action come in the form of a package?
 - 3. What should be included in that package?

There was universal agreement among all the Workgroup members that some form of action was needed.

Having established this, Rosemarie Day asked if the action should come in the form of a package. Peter Hollmann said that it depends on what the Rhode Island legislature could accomplish within its limited timeframe.

Teresa Paiva-Weed said that she was concerned about recommending an IRP to the Rhode Island legislature without a forming a formal workgroup first. She said that she is leaning toward Vermont’s approach with regard to IRP.

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Co-Chair Bill Wray asked what the trigger in Vermont is. Director Zachary Sherman said that Vermont has a workgroup similar to this Workgroup, and that it is currently meeting to discuss IRP. Vermont's workgroup is required to make a recommendation to the Vermont legislature by November 1, 2018. While Vermont's mandate will go into effect in 2020, the mechanics must be determined by the workgroup.

Co-Chair Steve Boyle pointed out that the Rhode Island legislature will have a short period of time to evaluate the Workgroup's recommendation. If the Workgroup leaves items out, versus recommending a complete package, it may be doing a disservice to the legislature.

Co-Chair Bill Wray added that there are three legs to the stool, so we want to be careful about reframing them without considering each leg.

Teresa Paiva-Weed pointed out that this Workgroup is ad hoc, but Maryland's workgroup was established by the state's legislature. She said that a formal advisory group established by Rhode Island's legislature to recommend an IRP would show more of a commitment to market stability.

Chairman Joshua Miller said that the Workgroup is stuck between a rock and a hard place. If the recommendation to the Rhode Island legislature fails to include data on what would happen if nothing is done then the Workgroup puts action at risk. He said that at a minimum, the Workgroup needs to recommend something or else people will ask "why didn't you say something?". Conversely, if the Workgroup's recommendation is too aggressive and lacks evidence to back it up, no one will take the recommendation seriously. The key is striking a balance, he said. He said that the Workgroup's recommendation needs to be loud and clear that market stability policy changes are required.

Chairman Joshua Miller proposed including both a plan A and plan B in the Workgroup's recommendation. Plan A could include all the policies that the Workgroup has identified as important, and plan B could limit its recommendations

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only to the policies that are well supported by evidence. He explained that the benefit of having two plans is that it would bring other members of the Rhode Island legislature into the process who didn't have the opportunity to sit through this Workgroup's meetings for the last five weeks.

Teresa Paiva-Weed proposed that the Workgroup model its IRP recommendation around Maryland's approach, which is to establish a formal advisory commission to consider IRP.

Chairman Joshua Miller said that the Workgroup could try to make a case that IRP is critical to have in place for 2020. He said that he has tried bringing other legislators' attention to this issue, but it is complicated and many legislators are focused on local issues. Based on that fact, he recommends modeling the recommendation after either Maryland or Vermont's approaches to IRP. He explained that legislators have not really had their eye on this issue, so getting them to approve the specifics at this time would be difficult.

Teresa Paiva-Weed asked Chairman Joshua Miller to clarify that the Workgroup is still moving forward with recommending the STLD and 1332 Waiver legislation at this time, and Chairman Miller said yes. Janet Raymond said that she supported these legislative proposals as well.

Co-Chair Steve Boyle asked if legislation is required to appoint an advisory commission to recommend IRP, or whether the Governor can unilaterally appoint an advisory commission. Teresa Paiva-Weed suggested that the advisory commission be established by executive order. She said that it is important that a couple of seats on the advisory commission be appointed by the House and Senate leaders. The executive order should state that the Governor, House and Senate leaders are all concerned about the impact that repealing the federal IRP penalty will have on Rhode Islanders; dozens of states are reacting; and Rhode Island needs to consider the matter, explained Teresa Paiva-Weed. Samuel Salganik said that this Workgroup

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should still recommend a starting point for any future advisory commission that is formed.

Chairman Joshua Miller supported the idea that the advisory commission be established by executive order because the Governor will be responsible for implementing IRP if it is enacted.

Co-Chair Steve Boyle agreed that establishing an advisory commission by executive order makes sense if the executive order has approval from both the House and Senate leaders. Co-Chair Bill Wray asked whether it would be more beneficial if the advisory commission was established through legislation. Teresa Paiva-Weed said that an executive order is appropriate as long as the Senate and House leaders can recommend who they want to appoint to the advisory commission.

Chairman Joshua Miller recommended going to the governor and pointing out the importance of legislative buy-in as part of the executive order. He said that this should be attempted internally at first. The executive order should be as comprehensive as possible by getting the Rhode Island legislature as involved as possible. It could include a blessing of this Workgroup because it's working so well. John Tassoni, Jr. agreed that establishing the advisory commission by executive order is the correct approach. He said that a lot of people don't have their eye on IRP right now but a formal commission could help garner attention to the issue.

David Burnett asked what the scope of the advisory commission would be. He said that developing a reinsurance program through a 1332 Waiver is just as heavy a lift as instituting IRP. Chairman Joshua Miller clarified that all the 1332 Waiver legislation does is authorize HealthSource RI to apply for the waiver and implement the program contingent on funding. Teresa-Paiva Weed added that the Workgroup's recommendation should address funding for reinsurance

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- g. Rosemarie Day recommended that the Workgroup turn the conversation from how to move these policies forward politically to a discussion about the three legs of the stool, and how to propose these policies as a package.
- h. Rosemarie Day asked whether the 1332 Waiver legislation to pursue federal funding and authority to operate a reinsurance program aligns with the guiding principles of the Workgroup. Commissioner Marie Ganim added that the legislation authorizes HealthSource RI to apply for a 1332 Waiver and establishes a restricted receipt account, but it does not specify where funds will be derived from or even if the program will be funded. This decision is left to the Rhode Island legislature's discretion, she explained.

David Burnett said that the devil is in the details, and inquired about the impact on the low-income population if a reinsurance program is implemented. Co-Chair Bill Wray said that an analysis was distributed to the Workgroup, which showed that reinsurance doesn't harm people in terms of those receiving subsidies. He noted, however, that a different document would be sent out after today's meeting that would be more accessible to the group. Samuel Salganik said that it depends on the lens you look through to see what impact reinsurance has on the low-income population.

Co-Chair Bill Wray said that the Workgroup should continue to recommend that HealthSource RI be authorized to seek a 1332 Waiver to operate a reinsurance program with the goal of mitigating premium impact increases. He said that the Workgroup's recommendation could have a qualifying clause that states that the waiver will be pursued in a way that doesn't harm the low-income population. Teresa Paiva-Weed pointed out that everyone defines low income differently. The public at large may not agree that a family of four with a household income of \$90,000 is low income just because they receive a health insurance subsidy. Joshua Miller said that regardless of what the reinsurance program looks like, all the 1332 Waiver legislation does is authorize HealthSource RI to apply for a 1332 Waiver. Then, the executive

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branch will propose and design the program. The legislation leaves the authority to fund the program up to the Rhode Island legislature. He explained that by inserting qualifying clauses or conditions in the Workgroup's recommendation, it hurts the potential for passing the bill. Teresa Paiva-Weed agreed that the Workgroup should not put restrictions on what a reinsurance program should look like.

Commissioner Marie Ganim added that the budget is wrapping up very quickly, and bills that are controversial will not move forward. This bill has not even been introduced yet, and if it is introduced with conditions it has no chance of making it in this session, she explained. David Burnett clarified that the question posed to the Workgroup is whether it supports giving HealthSource RI the authority to pursue a 1332 Waiver; not what the reinsurance program should look like. Commissioner Marie Ganim and Chairman Joshua Miller confirmed his understanding. Co-Chair Steve Boyle agreed that the Workgroup should stay away from the weeds and focus its recommendation on supporting the 1332 Waiver legislation.

Co-Chair Bill Wray asked the Workgroup what the document outlining the Workgroup's recommendation should look like. He said that there appears to be consensus that the Workgroup wants to include a recommendation to pursue the 1332 Waiver and STLD legislation. The document should then point out the few areas that still need to be defined, but not take a position on those undefined areas one way or the other.

Ralph Coppola said that the Workgroup's goal is to stabilize the overall health insurance market. If the Workgroup doesn't take action, the market will lose healthy insureds, which will have an adverse reaction and increase rates, he explained. It is important to keep healthy people in the market now.

Teresa Paiva-Weed said that Ralph Coppola makes a good point; there is a cost to everyone if a reinsurance program is not implemented. Chairman Joshua Miller agreed that doing nothing would have a pervasive impact on the entire market.

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Chairman Joshua Miller cautioned that the Workgroup’s initial recommendation should not include any caveats or description about what the reinsurance program should look like because it opens up the potential for being misconstrued and subjected to opposition. Teresa Paiva-Weed added that the Workgroup should not include any policy in its initial recommendation. Rosemarie Day asked whether the Workgroup could include policy in a recommendation after the 1332 Waiver legislation passes. Co-Chair Bill Wray said that he thought it could.

i. Vote: 1332 Waiver Legislation

Co-Chair Bill Wray asked the Workgroup members to take a vote on whether they support the legislation that authorizes HealthSource RI to apply for a 1332 Waiver to implement a reinsurance program. The results of the vote are as follows:

In favor: Cristina Amedeo, Stephen Boyle (co-chair), David Burnett (on behalf of Peter Marino), Al Charbonneau, Ralph Coppola, Rosemarie Day, Peter Hollmann, Chairman Joshua Miller, Teresa Paiva-Weed, Janet Raymond, John Tassoni, Jr. (on behalf of Susan Storti), Larry Warner, Bill Wray (co-chair)

Opposed: None

Abstained: Jane Hayward, Samuel Salganik

j. Vote: STLD Legislation

Co-Chair Bill Wray asked the Workgroup members to take a vote on whether they support recommending the STLD plan legislation. The results of the vote are as follows:

In favor: Cristina Amedeo, Stephen Boyle (co-chair), David Burnett (on behalf of Peter Marino), Al Charbonneau, Ralph Coppola, Rosemarie Day, Jane Hayward, Peter Hollmann, Chairman Joshua Miller, Teresa Paiva-Weed,

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Janet Raymond, Samuel Salganik, John Tassoni, Jr. (on behalf of Susan Storti), Larry Warner, Bill Wray (co-chair)

Opposed: None

Abstained: None

k. **Vote: Establish Advisory commission on IRP**

Co-Chair Bill Wray asked the Workgroup members to take a vote on whether they support recommending that a formal advisory commission be established either through executive order or legislative action to consider IRP. The results of the vote are as follows:

In favor: Cristina Amedeo, Stephen Boyle (co-chair), David Burnett (on behalf of Peter Marino), Al Charbonneau, Ralph Coppola, Rosemarie Day, Jane Hayward, Peter Hollmann, Chairman Joshua Miller, Teresa Paiva-Weed, Janet Raymond, Samuel Salganik, John Tassoni, Jr. (on behalf of Susan Storti), Larry Warner, Bill Wray (co-chair)

Opposed: None

Abstained: None

l. Co-Chair Bill Wray turned the Workgroup's attention to the more detailed discussion of what the document containing the Workgroup's recommendation should look like.

Teresa Paiva-Weed reiterated the importance of excluding conditions and policies because they would likely draw opposition.

Co-Chair Bill Wray said that the recommendation should include the three items voted on today, and asked if the document should include any of the other policy items that the Workgroup had discussed but not reached a consensus on. Director Sherman said that the recommendation should include the items that the Workgroup

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largely supports rather than including items that the workgroup has not reached a consensus on. He added that the goal is to send a draft white paper containing the Workgroup’s recommendations in advance of the next meeting for the Workgroup to review and discuss. He said that he would like to discuss funding next week, so that the Workgroup could add details to the draft white paper. He expressed that the final recommendation should align with the Workgroup’s three guiding principles.

Peter Hollmann said that the white paper should be very concise, identify the Workgroup’s goal and guiding principles, and include the policy recommendations that the members have reached a consensus on.

Larry Warner added that the white paper should be concise and not include any conditions because they would make the document too controversial. He said that he would, however, support the idea of referencing the potential impact that reinsurance could have on the low-income population.

Co-Chair Bill Wray added that he was not suggesting that the Workgroup rush the white paper. He was only suggesting that the Workgroup develop a rough draft to review at the next meeting.

Co-Chair Steve Boyle said that the Workgroup settled on three items that are actionable today. He recommended including these three items in the draft white paper as recommendations, and then referencing the other carrots and sticks that were discussed. Peter Hollmann added that the white paper should just list the other carrots and sticks, and state that the Workgroup discussed them and further discussion is still required.

Chairman Joshua Miller said that the white paper should demonstrate how the group arrived at its consensus. He said that it is important to mention the negative impact that a failure to act would have on the entire health insurance market.

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Teresa Paiva-Weed asked for a laundry list of what other policies the Workgroup could realistically recommend.

Co-Chair Bill Wray recommended that the draft white paper be structured as follows: acknowledge the Workgroup's charge; explain how it went about fulfilling that charge; and identify the Workgroup's recommendations. He said the document should conclude by referencing the other policies that the Workgroup considered but didn't reach a consensus on.

V. **Public Comment**

- a. John Cucco mentioned that he had sent out the incorrect reinsurance analysis document last week, but will send the correct one to the Workgroup members shortly after today's meeting. Commissioner Marie Ganim thanked John and commended him for his phenomenal work.

VI. **Adjourn**

- a. The meeting was adjourned at 9:58am.