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*TESTIMONY OF
ATTORNEY GENERAL RICHARD BLUMENTHAL
BEFORE THE PUBLIC HEALTH COMMITTEE
MARCH 12, 2010*

I appreciate the opportunity to support Senate Bill 429, An Act Concerning Most-Favored-Nation Clauses in Health Care Contracts.

This legislation prohibits any clause in a contract between a health insurer and a hospital or health care provider that prohibits the hospital or provider from contracting with another insurer at a lower payment or reimbursement rate. In addition, such contracts cannot have a clause requiring provider disclosure of the rates paid by other insurers or a mandatory option to renegotiate rates if a lower rate is agreed to by the provider with another insurer.

My office has been conducting an extensive and in-depth antitrust investigation focusing on practices by Anthem Blue Cross and Blue Shield (Anthem) of Connecticut, which is owned by WellPoint, Inc. -- one of the nation's largest for-profit health insurance companies. Preliminarily, I have uncovered Anthem contract clauses -- commonly referred to as Most Favored Nations (MFN) clauses -- requiring that hospitals offer Anthem the lowest reimbursement rates in Connecticut.

MFN clauses sustain high premium costs, hurting small businesses and individuals -- and ultimately our entire economy. Anthem is one of the most powerful players in the health insurance industry -- with an estimated 50-55% of the Connecticut market, in which there are only four or five major participants. If hospitals are shackled by Anthem's MFN from offering potential new entrants lower reimbursement rates, new competition in the health insurance market is unlikely to occur. As a result of Anthem's practices, competitors are forced to pay more, hospitals are forced to accept less from Anthem -- and consumers are paying higher and higher costs for health care.

Anthem has MFNs with the vast majority of hospitals in Connecticut. Because of these provisions, Anthem is effectively guaranteed to pay the lowest rates to hospitals. Yet, it is debatable whether Anthem passes these savings to its insured, especially those who purchase individual policies -- just this past year, it sought the largest premium increase for individual policies of any Connecticut commercial payer.

While MFN clauses are not per se illegal under Connecticut antitrust statute, Anthem's use of an MFN clause relating to the Charter Oak Health Plan deterred the entry of lower cost health insurance products which raised competitors and consumer costs.

Several other states have already banned MFN clauses with statutes substantially similar to the raised bill, including Indiana, Minnesota, Ohio and Vermont. Additional states that have banned MFN clauses with variously worded statutes are Alaska, California, Idaho, Kentucky, New Hampshire, New Jersey and Washington.

I urge the committee's favorable consideration of Senate Bill 429.