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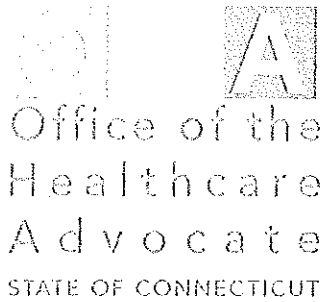

Testimony of Victoria Veltri
Acting Healthcare Advocate & General Counsel

Before the Insurance and Real Estate Committee
In support of SB 877
February 10, 2011

Good afternoon, Representative Megna, Senator Crisco, Senator Kelly, Representative Coutu, and members of the Insurance and Real Estate Committee. For the record, I am Vicki Veltri, Acting Healthcare Advocate and General Counsel with the Office Healthcare Advocate ("OHA"). OHA is an independent state agency with a three-fold mission: assuring managed care consumers have access to medically necessary healthcare; educating consumers about their rights and responsibilities under health insurance plans; and, informing you of problems consumers are facing in accessing care and proposing solutions to those problems.

OHA supports SB 877, An Act Concerning Mental Health Parity. Simply stated, this bill gives the Insurance Department the power to enforce the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) and its accompanying regulations. While Connecticut has one of the strongest parity laws in the nation, the MHPAEA and its regulations provide even stronger protections for consumers.

The protections of the MHPAEA go beyond the financial protections covered in Connecticut's current law to prohibiting disparate treatment based on treatment limitations including visit limitations and non quantitative limitations such as prior authorization. Even under Connecticut's mental health parity law, many OHA consumers have suffered from serious access to treatment problems that would not be tolerated under the MHPAEA.

The MHPAEA require that mental health disorders be treated like any other health condition. Prior to the parity laws, most insurance plans put arbitrary and unequal limits and conditions on mental health treatment. These arbitrary limits and discriminatory practices cost more in the long run, harmed lives, and put many families into unfair financial hardship and even bankruptcy.

This conforming bill ensures that Connecticut consumers are guaranteed the protections of the MHPAEA through direct enforcement by the Insurance Department. We

have used this mechanism to codify HIPAA and COBRA, among other laws, into state law.

We note that the bill as written would subject employers with less than fifty employees to the provisions of the MHPAEA as state law, though those employers are exempt from the federal law. OHA supports an alteration of SB 877 that would exempt small employers from the provisions Section 2 of the bill, but maintain the requirements of current Connecticut mental health parity law. It was not the intent of the group that sought this legislation to impose additional requirements on small businesses from which they were exempt under federal law. Removal of small employers from the provision of Section 2 of the bill will help move SB 877 toward a true conforming bill.

We also believe some adjustments need to me made to ensure that codifying the MHPAEA does not inadvertently relieve policies from the existing obligations under Conn.Gen.Stat. § 38a-514a. For now, we are proposing the attached language to resolve this issue. And we are working with the Insurance Department and the health insurers to achieve the goals of the legislation. A conforming bill would not impose any new mandates on businesses or employers.

Thank you for your time today. I will now answer any questions you may have. If you have any concerns about our testimony, you may also contact me at victoria.veltri@ct.gov or (860) 297-3982.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-514 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2012*):

(a) (1) Each such group health insurance policy of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469, except group health policies issued to employers of fifty individuals or less, shall comply with the provisions set forth in the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, P.L. 110-343, as amended from time to time, and the regulations adopted thereunder.

(2) Nothwithstanding any exemptions to offering mental health and substance abuse benefits under subsection (a)(1), except as provided in subsection (j) of this section, each group health insurance policy, providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469, delivered, issued for delivery, renewed, amended or continued in this state [on or after January 1, 2000,] shall provide benefits for the diagnosis and treatment of mental or nervous conditions. For the purposes of this section, "mental or nervous conditions" means mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders". "Mental or nervous conditions" does not include (1) mental retardation, (2) learning disorders, (3) motor skills disorders, (4) communication disorders, (5) caffeine-related disorders, (6) relational problems, and (7) additional conditions that may be a focus of clinical attention, that are not otherwise defined as mental disorders in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders".

(b) No such group policy shall establish any terms, conditions or benefits that place a greater financial burden on an insured for access to diagnosis or treatment of mental or nervous conditions than for diagnosis or treatment of medical, surgical or other physical health conditions.

(c) In the case of benefits payable for the services of a licensed physician, such benefits shall be payable for the same services when such services are lawfully rendered by a psychologist licensed under the provisions of chapter 383 or by such a licensed psychologist in a licensed hospital or clinic.

(d) In the case of benefits payable for the services of a licensed physician or psychologist, such benefits shall be payable for the same services when such services are rendered by:

(1) A clinical social worker who is licensed under the provisions of chapter 383b and who has passed the clinical examination of the American Association of State Social Work Boards and has completed at least two thousand hours of post-master's social work experience in a nonprofit agency qualifying as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in a municipal, state or federal agency or in an institution licensed by the Department of Public Health under section 19a-490;

(2) A social worker who was certified as an independent social worker under the provisions of chapter 383b prior to October 1, 1990;

(3) A licensed marital and family therapist who has completed at least two thousand hours of post-master's marriage and family therapy work experience in a nonprofit agency qualifying as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of 1986 or any subsequent corresponding internal revenue code of the United States, as from time to time amended, in a municipal, state or federal agency or in an institution licensed by the Department of Public Health under section 19a-490;

(4) A marital and family therapist who was certified under the provisions of chapter 383a prior to October 1, 1992;

(5) A licensed alcohol and drug counselor, as defined in section 20-74s, or a certified alcohol and drug counselor, as defined in section 20-74s; or

(6) A licensed professional counselor.

(e) For purposes of this section, the term "covered expenses" means the usual, customary and reasonable charges for treatment deemed necessary under generally accepted medical standards, except that in the case of a managed care plan, as defined in section 38a-478, "covered expenses" means the payments agreed upon in the contract between a managed care organization, as defined in section 38a-478, and a provider, as defined in section 38a-478.

(f) (1) In the case of benefits payable for the services of a licensed physician, such benefits shall be payable for (A) services rendered in a child guidance clinic or residential treatment facility by a person with a master's degree in social work or by a person with a master's degree in marriage and family therapy under the supervision of a psychiatrist, physician, licensed marital and family therapist or licensed clinical social worker who is eligible for reimbursement under subdivisions (1) to (4), inclusive, of subsection (d) of this section; (B) services rendered in a residential treatment facility by a licensed or certified alcohol and drug counselor who is eligible for reimbursement under subdivision (5) of subsection (d) of this section; or (C) services rendered in a residential treatment

facility by a licensed professional counselor who is eligible for reimbursement under subdivision (6) of subsection (d) of this section.

(2) In the case of benefits payable for the services of a licensed psychologist under subsection (d) of this section, such benefits shall be payable for (A) services rendered in a child guidance clinic or residential treatment facility by a person with a master's degree in social work or by a person with a master's degree in marriage and family therapy under the supervision of such licensed psychologist, licensed marital and family therapist or licensed clinical social worker who is eligible for reimbursement under subdivisions (1) to (4), inclusive, of subsection (d) of this section; (B) services rendered in a residential treatment facility by a licensed or certified alcohol and drug counselor who is eligible for reimbursement under subdivision (5) of subsection (d) of this section; or (C) services rendered in a residential treatment facility by a licensed professional counselor who is eligible for reimbursement under subdivision (6) of subsection (d) of this section.

(g) In the case of benefits payable for the service of a licensed physician practicing as a psychiatrist or a licensed psychologist, under subsection (d) of this section, such benefits shall be payable for outpatient services rendered (1) in a nonprofit community mental health center, as defined by the Department of Mental Health and Addiction Services, in a nonprofit licensed adult psychiatric clinic operated by an accredited hospital or in a residential treatment facility; (2) under the supervision of a licensed physician practicing as a psychiatrist, a licensed psychologist, a licensed marital and family therapist, a licensed clinical social worker, a licensed or certified alcohol and drug counselor, or a licensed professional counselor who is eligible for reimbursement under subdivisions (1) to (6), inclusive, of subsection (d) of this section; and (3) within the scope of the license issued to the center or clinic by the Department of Public Health or to the residential treatment facility by the Department of Children and Families.

(h) Except in the case of emergency services or in the case of services for which an individual has been referred by a physician affiliated with a health care center, nothing in this section shall be construed to require a health care center to provide benefits under this section through facilities that are not affiliated with the health care center.

(i) In the case of any person admitted to a state institution or facility administered by the Department of Mental Health and Addiction Services, Department of Public Health, Department of Children and Families or the Department of Developmental Services, the state shall have a lien upon the proceeds of any coverage available to such person or a legally liable relative of such person under the terms of this section, to the extent of the per capita cost of such person's care. Except in the case of emergency services the provisions of this

subsection shall not apply to coverage provided under a managed care plan, as defined in section 38a-478.

(j) A group health insurance policy may exclude the benefits required by this section if such benefits are included in a separate policy issued to the same group by an insurance company, health care center, hospital service corporation, medical service corporation or fraternal benefit society. Such separate policy, which shall include the benefits required by this section and the benefits required by section 38a-533, shall not be required to include any other benefits mandated by this title.

(k) In the case of benefits based upon confinement in a residential treatment facility, such benefits shall be payable in situations in which the insured has a serious mental or nervous condition that substantially impairs the insured's thoughts, perception of reality, emotional process or judgment or grossly impairs the behavior of the insured, and, upon an assessment of the insured by a physician, psychiatrist, psychologist or clinical social worker, cannot appropriately, safely or effectively be treated in an acute care, partial hospitalization, intensive outpatient or outpatient setting.

(l) The services rendered for which benefits are to be paid for confinement in a residential treatment facility [must] shall be based on an individual treatment plan. For purposes of this section, the term "individual treatment plan" means a treatment plan prescribed by a physician with specific attainable goals and objectives appropriate to both the patient and the treatment modality of the program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2012*	38a-514

Statement of Purpose:

To require all group health insurance policies in the state providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes to comply with the provisions of the federal Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008.