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WRITTEN TESTIMONY OF

MELANIE I. KOLEK, LEGAL COUNSEL

CONNECTICUT EDUCATION ASSOCIATION

BEFORE THE

COMMITTEE ON LABOR AND PUBLIC EMPLOYEES

REGARDING

SENATE BILL NO. 823

**"AN ACT CONCERNING SEVERE MENTAL OR EMOTIONAL IMPAIRMENT AND  
WORKERS' COMPENSATION COVERAGE"**

FEBRUARY 22, 2013

My name is Melanie I. Kolek and I am Legal Counsel for the Connecticut Education Association, proudly representing over 43,000 teachers across our state. A majority of my practice is before the Workers' Compensation Commission. I am commenting on several important aspects of Senate Bill No. 823.

As drafted, Senate Bill No. 823 would permit compensation for Workers' Compensation injuries for only post-traumatic stress resulting from the witnessing of a death or maiming of other persons. While the premise of such proposed language is based in large part upon the tragedies in Newtown and at Hartford Distributors, this language does not go far enough to protect our work force. The language as drafted limits mental claims under the Workers' Compensation Act to just post-traumatic stress disorder, and is tailored to only a particular type of work-place setting, subject to proving that the act itself that caused the disorder was "witnessed" and "intentional." Instead of proving the mental intent of the perpetrator and parsing the word "witness" at trial, I would propose that the language of SB 823 be revised to include all types of mental claims arising out of and in the course of one's employment, not just those arising from a physical injury or as proposed here, not just those arising out of an intentional act wherein a death or maiming occurs.

As there has been testimony before this committee already on this issue, there will be many arguments against this, including cost and abuse factors which were discussed before the 1993 Act Reforms. However, taking a closer look at the Act itself, checks and balances to prevent abuse are already in place which can simply be converted to mental injuries. There are significant burdens placed upon the claimant to prove a physical injury, and mental claims would similarly fall under this requirement, allowing the respondents to challenge the compensability and causality of that mental condition just as they now do with physical claims.

Moreover, it was expected following the 1993 Act Reforms, given the projections coming out of California at that time for mental-mental claims, that mental injuries would cause excessive cost and expense to our cities and municipalities. There is no simply no evidence to support that this occurred or will now occur when these types of claims are recognized under the Act.

You have heard testimony from advocates against this Bill that almost 8% of the population suffers some type of mental anguish or injury at some point in their life. In fact, several studies show almost 80% of Americans suffer from lumbar or cervical symptoms in their lifetime, yet those physical injuries are recognized under the Act.

This is a fundamental mental health issue. As Vice President Biden recently discussed in Danbury, we must make mental health services available, not deny that treatment to our working population who suffer in silence without the opportunity or resources for treatment. Inclusion of mental-mental claims under the Workers' Compensation Act is necessary, timely, and in the very best interest of our working citizens.