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**TESTIMONY OF SHELDON TOUBMAN \REGARDING RAISED BILL 5529
(MEDICAL NECESSITY DEFINITION)**

Good morning, Sen. Gerratana, Rep. Johnson and members of the Public Health Committee. My name is Sheldon Toubman and I am a staff attorney with New Haven Legal Assistance Association, primarily specializing in the representation of Medicaid enrollees and applicants. I am here today to testify regarding Bill 5529, in partial support of the bill, to the extent it amends the commercial definition of medical necessity (Section 2), but in opposition to the extent it would in any way change the Medicaid definition (Section 1).

First, I should say that it appears that this bill is very well-intentioned and is appropriately designed to protect consumers, both in the Medicaid program and in commercial insurance. Objectively speaking, I do not have a problem with any of the changes. However, the changes to the Medicaid medical necessity definition have to be viewed in context: The definition codified at C.G.S. § 17b-259b(a), several years ago, was the result of a thorough process which involved the appointment of a special committee, known as the Medical Inefficiency Committee, specifically to craft a definition of this term for Medicaid. I was the appointee of the Speaker of the House to this committee, along with several other advocates and providers. We held several meetings and a hearing, and we engaged in extensive negotiations over several weeks with officials of DSS to work out every single word.

It was a very difficult, time-consuming process, and no one was totally happy with the result, but in the end we all agreed—all members of the specially-appointed committee, DSS officials and advocates--- to each and every word of the definition of medical necessity and that agreement became codified in 17b-259b(a).

Second, since that time, this statutory definition has served both the state and Medicaid enrollees, as well as their providers, very well. This is not to say that there have not been some big fights about coverage under it, but in these fights no one has suggested that the definition needs to be changed. Rather, the definition has served as an appropriate framework to resolve conflicts over whether services should or should not be paid for under Medicaid to a particular client.

Given this background, we are opposed to making any changes whatsoever to this hard-fought set of provisions. Any changes to this definition could upset the careful balance that we reached years ago, even if we might otherwise agree that the changes are an improvement. Further, such minor revisions and could open the door to clearly harmful changes to the Medicaid definition.

On the other hand, the proposed changes to the commercial definition of medical necessity appear to be positive and do not appear to present any risk of upsetting a carefully negotiated statutory scheme. Accordingly, we support the changes in Section 2 of this bill, but not Section 1.

Thank you for the opportunity to speak with you this morning.