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WRITTEN TESTIMONY
OF
MELANIE I. KOLEK, LEGAL COUNSEL

CONNECTICUT EDUCATION ASSOCIATION
BEFORE THE

COMMITTEE ON LABOR AND PUBLIC EMPLOYEES

RE: SENATE BILL NO. 164

"AN ACT INCLUDING CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS WITHIN THE 'DEFINITION OF PERSONAL INJURY' UNDER THE WORKERS' COMPENSATION STATUTES"

February 26, 2019

My name is Melanie I. Kolek and I am Legal Counsel for the Connecticut Education Association, proudly representing thousands of public school 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. 164.

As drafted, Senate Bill No. 164 would permit compensation for Workers' Compensation injuries for mental or emotional impairments resulting from the visual witnessing of a death or maiming of one or more human beings. The language is tailored to only a particular, but understandably important, type of work-place setting, subject to proving that the act itself that caused the impairment was "visually witnessed" by the employee and was done so in the "immediate aftermath" of a death or maiming. CEA believes that the language of SB 164 be expanded to include all employees and types of mental impairments 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 act wherein a death or maiming occurs.

As there has been testimony before this committee and since the awful tragedies that prompted this proposed legislation, there will be many arguments against this, including cost and abuse factors which were discussed before the 1993 Workers' Compensation Act Reforms. Taking a closer look at the statutes and case law, however, checks and balances to prevent abuse are already in place which can simply be converted to mental impairment claims. There are significant burdens placed upon the employee to prove a physical injury, and mental impairments would similarly fall under this requirement, allowing the

employer to challenge the compensability and causality of that mental impairment 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 impairments 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 undoubtedly will hear 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. With advances in medical science, 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 all of our working citizens.