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Testimony of Stephen M. Morelli
Chairman, Workers' Compensation Commission
Submitted to the Labor and Public Employees Committee

March 11, 2021

Good morning, Senator Kushner, Representative Porter, Senator Sampson, Representative Arora and members of the Labor and Public Employees Committee.

My name is Stephen Morelli, and I am the Chairman of the Workers' Compensation Commission. Thank you for the opportunity for the Workers' Compensation Commission (WCC) to testify on subsection (f) of section 3 of S.B. 1002 AN ACT CONCERNING LABOR ISSUES RELATED TO COVID-19, PERSONAL PROTECTIVE EQUIPMENT AND OTHER STAFFING MATTERS, subsection (f) of section 4 of H.B. No. 6478 AN ACT CONCERNING WORKERS' COMPENSATION and subsection (f) of section 3 of H.B. No. 6595 AN ACT CONCERNING LABOR MATTERS RELATED TO COVID-19, PERSONAL PROTECTIVE EQUIPMENT AND OTHER STAFFING ISSUES.

These three pieces of legislation require WCC to submit monthly reports to the joint standing committees of the General Assembly having cognizance of matters relating to labor and insurance until January 1, 2023. WCC tracks and has been providing some of this information to you with relative ease. I would note that claim and hearing information can take a few days to process, so when a report is submitted on a particular day, there may be a small number of claims and hearings that are pending and not included in the data.

In regards to item 2, "the number of record-only claims filed by hospitals, nursing homes, municipalities and other employers, listed by employer name," WCC does not currently request that insurers, self-insured entities and third party administrators list the information they provide pursuant to Executive Order NO. 7JJJ by employer name. Satisfying this request may lead to an increase in the amount of information WCC receives and must process from these entities. I reference this point as it may take some adjustment and adoption of new processes in order to provide the requested information in a manner that is useful to the committee and complies with the request.

Regarding item 4, the request for "the number of such claims contested by each individual employer, including state agencies, third-party administrators or insurance carriers by client," would benefit from clarification. Is a claim considered to be "contested" when WCC receives a Form 43, *Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits*? The current Act states that the failure to file a Form 43 within a certain window of time serves to preclude an employer from asserting a defense to the claim. That provision (§31-294c(b)) has been interpreted by case law such that if an employer/insurer fails to file a Form 43 there is the potential loss of their right to contest a claim. As a result, many respondents (employers/ insurers), even if they are continuing to pay benefits and have no intention of truly contesting the claim, are of the opinion that current law necessitates the filing of a Form 43. The Form 43 is

filed so as to protect the employer from liability in the event later discovered evidence or actions would impact a claimant's entitlement to benefits. It is important to remember that the Workers' Compensation Commission retains ongoing jurisdiction over a claim unless the claim is closed by stipulation or entirely dismissed, and all appeals exhausted. Thus, in most claims there exists the potential for an employer's future liability for some undetermined amount and category of benefits. It is therefore not unusual to have a situation where a Form 43 is filed without an employee ever filing a Form 30C, *Notice of Claim for Compensation*. For example, as of March 8, 2021, WCC has 3,123 COVID-19 claims in its system of which 1,457 have a Form 43 filed that do not have a Form 30C. Likewise there may be instances where a claimant files a notice of claim asserting a COVID-19 exposure but is asymptomatic. As I have mentioned in previous exchanges with some of you, this is what I call putting a stake in the ground to preserve a claim, because, just as an employer has a limited time by which to assert its basis for a defense to a claim, a claimant has a limited time by which to assert a claim.

Finally, regarding item 9, "the average time it takes to adjudicate contested COVID-19 workers' compensation claims." Again, clarification would be helpful as to what constitutes the timeframe of a claim being adjudicated. As stated above, in Connecticut, a workers' compensation claim will remain open indefinitely unless there is a full and final stipulation approved by a workers' compensation commissioner or has been entirely dismissed via adjudication. Findings issued by a Commissioner do not close a workers' compensation claim but only determine entitlement to a particular category of benefits. In some cases the claim may continue to be adjudicated if a claimant believes that they are entitled to additional benefits or treatment. For purposes of the definition of contested, it may be useful to note that there are currently 74 COVID-19 claims in the adjudication process which do not have a Form 43 associated with them.

In conclusion, the Commission is always happy to work with this committee and the legislature to report any information we have that would be useful to you. Please feel free to reach out to me directly at any point in time if you have any comments or questions.

I thank you again for providing me with the opportunity to testify on the reporting requirements of S.B. 1002, H.B. No. 6478 and H.B. No. 6595.