CHAIRPERSONS: Senator Matthew Lesser
Representative Kerry Wood

SENATORS: Anwar, Cabrera, Maroney

REPRESENTATIVES: Comey, Dathan, Delnicki, Farrar, Luxenberg, Meskers, Nuccio, Pavalock-D'Amato, Rochelle

SENATOR LESSER (9TH): Great. With that, thank you, Representative Wood. I'd like to call to order today's meeting of the Insurance and -- public hearing of Insurance and Real Estate Committee, pursuant to a Public Act passed in 2019. We asked the Insurance Department to collect data on non-quantitative treatment limitations imposed on by insurance companies trying to understand a mental health parity.

This is the -- that Act then required us to look at the data and instructed us to hold the public hearing by May 15th of each year.

I want to pre-emptily apologize to Members of the Committee and the public because, as many folks know, the Senate was in late the last two nights. And I have a new constituent who's been taking up much of my time. So if I'm a little incoherent I apologize but this is an important hearing because it gives us the first opportunity to look at the data being collected by the Department of Insurance and also hear from the public and relevant stakeholders about how mental health parity is going.

And so with that, our only scheduled officials are from the Department of Insurance, and then we'll hear from some members of the public afterwards. And so I want to turn it over to the Insurance Department without delay to hear more about what they found and we'll go from there.

So first up we have Robert Chester and Kurt Swan from the Connecticut Insurance Department. Good to see you this morning. You have to unmute yourself.

KURT SWAN: Okay, can you hear me now?

SENATOR LESSER (9TH): We sure can. Go ahead.

KURT SWAN: Okay, Senator Lesser, Representative Wood, Senator Hwang and Representative Pavalock-D'Amato, and Members of the Insurance and Real Estate Committee, my name is Kurt Swan. And I'm the director of Market Conduct at the Connecticut Insurance Department. Thank you for the opportunity to provide remarks regarding the requirements of the NQTL reporting as part of Public Act that was passed back in 2019 and codified under 3088477.

The Federal Health Parity Addiction Equity Act or commonly referred to as MHPAEA, prohibits health plans from imposing non-quantitative treatment limitations or NQTLs on mental health and substance use disorder benefits that are more restrictive than those used for medical-surgical benefits. And the carriers are required to file reports with the departments, which we have reviewed and assessed on the basis of the following areas.

One, the carriers have explained and demonstrated how they develop and selected each medical necessity criteria within each benefit group. They've also submitted and identified and listed all the medical necessity criteria, NQTLs being applied within each benefit group.

And finally, the carriers have been able to demonstrate and compare the evidentiary standards supporting the applied medical necessity criteria and the NQTLs. Now, what that means is that we assess and consider the effects of these benefits and the limiting factors for their as written application and for their in-operation impacts and for the actual impact on the final outcome.

The expectation is that the NQTL components, such as prior authorization or concurrent care review practices would be applied to mental health and substance use disorder benefits comparably, and no more stringently than they would be applied to medical surgical benefits.

While the outcomes are not determinative of compliance, disparities and the outcome, such as denial rates or other outcome measures are an indicator or a warning sign that there may be parity non-compliance. And hence the outcome measures are essential to complete the NQTL compliance analysis.

For the data that was submitted the department found certain instances where the data supporting any incongruent benefit outcomes was often omitted or insufficiently provided and analyzed. Also, there were certain instances where documentation was not sufficient to demonstrate a comparative analysis process that demonstrated congruency between the, again, the as written, the in-operation and the final outcome.

I think it's also important to note that recent guidance provided through the 21st-century Cures Act emphasizes the need for more examples of compliance with the law. This includes best practices for establishing an internal MHPAEA compliance plan and also provides examples for the types of records that carriers should be prepared to provide. The Act emphasizes how the internal compliance strategy that promotes the prevention, detection, and resolution of potential appeal violations can help carriers improve compliance with the law.

In addition, the DOL provided an updated self-compliance tool to better ensure that carriers have the sufficient guidance going forward to ensure that this comparative analysis is performed.

That completes my remarks and I would be happy to answer any questions you may have.

SENATOR LESSER (9TH): Thank you for that. And I guess I'm a little frustrated. First of all, I appreciate that information. You mentioned that in some cases, the data that was provided was not sufficient. What -- is that because that internal MHPAEA compliance practices weren't yet in place, the -- What's the explanation as best you can for why that's the case? And does the department have a plan for collecting that data going forward? I'm just trying to figure out what the barriers are to collecting the data that we -- the department wants.

KURT SWAN: I think -- Senator, I think one, we found is the data that was provided was not sufficient. I think one is -- one reason could be, I think, there hasn't been sufficient clarity and guidance with that. I think the Cures Act provides that additional guidance. That's one piece.

I also -- we have recognized through the first time through with obtaining this data and going through that that we've already reached out to the health plans representatives. I think we're looking at improving how the data is acquired and streamlining that process and working on best practices to ensure that we get the appropriate data and meaningful data to ensure that we can improve on what's being reported to the department. So I think that's the approach that we've taken, and I think we've already had discussions with, again, with the health plan representatives to work on that. So next year hopefully we'll have a better product.

ROBERT CHESTER: I could add -- I could add to -- I could add to that, Senator. It's a good question.

SENATOR LESSER (9TH): And I'm sorry, could you please just identify yourself for the record?

ROBERT CHESTER: Oh, Bob Chester from the Insurance Department, market conduct examiner. The, you know, the federal parity law came out like 2010 and it was very clear that on the two components, if we were to look at non-quantitative treatment for patients they split it for this report. The examination only focused on that non-quantitative treatment limitations. They had the other segment, quantitative treatment limitations. But the focus has always been parity between the three benefit classes, the mental health, substance abuse, medical-surgical.

It was very clear that the non-quantitative treatment limitations that were to be assessed from the beginning of that law were to look at the as written standards and factors and sources for those non-quantitative treatment limitations and the delivery of the managed care benefits and when they actually are applied in application or in operations. So it said that you have your as written standards, and then managed care is a complex entity and they have all these components that can go into the factors in creating these NQTLs. And their process in delivering the final outcome that they said that you -- they have to maintain this comparability assessment on those in-operational practice as applied.

What the -- we've discovered in this report, and it gets to your point. Was it wasn't entirely clear on the -- what the disparity was on the final outcomes, the actual claim data, which is as important as the as written NQTL standards that are limiting the benefits and the in-operations, which was clearing the law and, of course, the final outcome is an imperative component to look at of the whole life cycle of the NQTLs, and that's where the department found there could be -- there could be or needs to be some improvements taken, which the industry, I understand, is willing to do that. But in fairness, that wasn't clear what those factors were to define what was incongruent on those final data outcomes

from the claim data, what would define a substantial disparity in that.

It was improved through the self-evaluation tool that was compiled but it's -- it wasn't entirely quantified. We now understand that part of the NQTLs and to regulate and to look at manage care and all these benefit limitations to make sure they're comparable and compliant with parity, that it involves the as written standards, the in-operations were -- which were there since 2010. And now absolutely the final outcomes that there's an expectation that the carriers have to provide a same level of comparative analysis they get for as written and in-operation with the final outcomes to pinpoint why these disparities are there under incongruent outcomes. And if you -- the law, the Federal Parity Law does allow that because they're not apples to apples between, you know, mental health, substance, medical-surgical. There are clinical standards that are -- can be comparable the way the law is written but that justifiably, justifiably, produce these disparate outcomes and incongruent outcomes. And the expectation now is that the carriers, if that's the case, should be able to demonstrate that to us and that's where there's room for improvement.

SENATOR LESSER (9TH): So thank you for that. And maybe I'm confused by what Kurt said a minute ago but the -- my understanding is the 21st century Cares Act passed in 2016, so the carriers have had five years- So there is guidance about compliance baked into that. You know, I'm frustrated, not sure why they're not -- they haven't done that by now, and so -- but your -- is it the department sense that by the time the -- they -- the next project data comes back next year that they will be in compliance, or is that the -- in terms of -- in terms of providing the comparable --- the comparative analysis required, et cetera. Are we expecting there to be data gaps going forward, or is this the final nudge that we needed to --?

KURT SWAN: I think the -- I think, Senator, the Cured Act, the recent information that the feds have put out provided more examples and clarity and guidance. And I think that's the key point to follow up on what was passed prior. And I think it makes it crystal clear for the carriers of what is expected, and I think that was the point I was trying to make, and it provides that guidance. And I think it's also some findings that we have found prior to the reports that were provided where this comparative analysis is important to be provided, and it's something that we will follow through and work with the carriers to ensure that it is clear with what's expected and ensure that the documentation is sufficient to demonstrate that they are in compliance with the NQTLs

SENATOR LESSER (9TH): Great. Thank you, and I understand that there was some recent enforcement action that the department has taken with regard to one major carrier regarding NQTLs, is there any information you could provide the Committee on what happened and to accept -- that you can be publicly about that?

KURT SWAN: No. I think there was one carrier where we conduct review and we're also in the process of reviewing other carriers specific to the NQTLs. And I think the finding there was that the comparative analysis was not sufficient. We identified that as a finding. We also assessed the penalty and ensure that there's a corrective action plan to ensure that that information is provided, and we will follow up on that to ensure that they're meeting that requirement.

SENATOR LESSER (9TH): And can you tell us which carrier that was?

KURT SWAN: That was United Healthcare and Oxford Health Plans here in the state.

SENATOR LESSER (9TH): And then the penalty was what? $600,000 dollars that was assessed? Is that -- ?

KURT SWAN: The penalty was a little over $500,000 dollars, but that was for a comprehensive exam specific parity review and some findings specific to utilization review criteria that was not being -- some findings specific to some utilization review criteria.

SENATOR LESSER (9TH): So do you -- I mean, going forward you're going to be getting more data, and hopefully carriers will be following the federal guidance and providing the data we need. Is there anything that the department needs to have more tools at its disposal to make sure that you're getting data required by law in a timely manner, and so you're -- and making sure that we're getting the comparative analysis that we need? Is that -- is there anything else the department needs at this point, or you do feel confident right now that based on new federal guidance and the enforcement tools with the department currently, that things are copacetic and we should be good going forward?

KURT SWAN: Yeah, I think the department could always use resources but I -- one, we have been having training provided specific to mental health parity and NQTL, and we have some additional training scheduled in the future for these issues. And I think that that would be sufficient. I also think that federal guidance will help a great deal to make it clearer with what the expectation is to ensure that there's a clear understanding of what's expected. And I think we just need to follow through and make sure that all the carriers are consistent with what they are provided.

SENATOR LESSER (9TH): Thank you, I may have additional questions, but I see several Members have their hands up, so I will turn it over to Members of the Committee if they have any questions and then

we'll go from there. Questions or concerns Members of the Committee? Yes, Representative Nuccio.

REP. NUCCIO (53RD): Good morning. Good morning, both of you, gentlemen, how are you?

ROBERT CHESTER: Good morning.

KURT SWAN: Good morning.

REP. NUCCIO (53RD): So I have a few questions. For your market conduct exam, have you standardized your NAIC template yet? I know there were talks within the last like, I don't know, six to nine months with NAIC on standardization of templates for the requests of information. Has Connecticut gone to one of the standardized appendixes?

KURT SWAN: Right, we have incorporated components of that. In doing that I think we're also looking at the revised self-compliance tool and ensuring that we have the components of that included in our review. I think one thing that we've identified is that we need to improve on the data that's being requested for the reporting there.

There's also an NSC working group that's working on --

REP. NUCCIO (53RD): Yeah, I know.

KURT SWAN: And I think we're still in the process of finalizing that complete NQTL, but I think we are certainly -- I am on that Committee actively involved, and I think when we get that refined we should be in a better shape for the tool that we are using to gather the information. And I think that's something we could -- we consistently monitor and incorporate, and I think that's something we already mentioned to the Senator that that's something we're looking at best practices to ensure we get the correct data.

ROBERT CHESTER: And Representative Nuccio, I would add to that -- and this touches on what Senator Lesser pointed out on things to close the gap, if you will, with the -- what we discovered with final outcome data on these NQTLS. That -- the NAIC working group is great because they're -- they've established best practice standards now that will be uniform, that everyone can use, and it makes very clear, very, very clear that the final outcome data is key, and that there's the obligation on the health carrier to do this more in extensive, in depth, demonstrate -- granular demonstration of comparability when there's disparate results or the results are incongruent from actual claim experience and claim data between them.

REP. NUCCIO (53RD): I can tell you from personal daily experience, I absolutely agree. There -- every state seemed to have their own template, different ways of doing it, different ways of gathering information, so the NAIC stepping in to kind of have a standardized reporting option has been grand. So I was just checking to see where Connecticut was on establishing that.

And from the perspective, I think it's probably good to -- for people to understand the difference between the NQTLs and the QTLs, so -- and how we're reporting the information. But more importantly, just as one quick set aside question. The fines that were issued, they're related to the market conduct exam, correct? And not the NQTLs, like the specific MHPAEA, NQTL, QTL reporting. It's a market conduct exam, correct?

KURT SWAN: That's correct.

REP. NUCCIO (53RD): Yeah, so --

KURT SWAN: It was a market conduct exam, correct.

REP. NUCCIO (53RD): Right, right. Okay, so the NQTLs and QTLs. So for the NQTLs you're looking at

things like step therapy, like application of therapies and stuff like that, not the cost-share parity perspectives to make sure we're in compliance with how cost-share is attributed across mental health and medical, correct?

ROBERT CHESTER: Correct, that's -- the quantitative treatment limitations it's that the financial requirement, it has specific numbers on, you know, physical therapy, how many times you can actually go, so that's all part of it. There's a cumulative financial amount in the plan on the cost-sharing components. That's the quantitative treatment limitation. The non-quantitative treatment limitation components are actually -- there's a lot more.

REP. NUCCIO (53RD): A lot. [laughs]

ROBERT CHESTER: A lot, and it's changes and evolves as efficacy and clinical efficiency and cost change, markets change. So it's -- that's a moving target, but for this report, we focused on 13 of them, which is a uniform standard that it's in the self-compliance tool.

REP. NUCCIO (53RD): Okay, so are you -- you're looking at pretty much the standard set of NQTLs then because I can say that the hardest part when we -- when insurance carriers don't receive extremely clear guidance on how you want these mapped, you know, you're talking about comparing qualitative treatment limits from medical health to subsequent mental health. And then trying to map those 'cause they're definitely not always one to one, right. We know that, you know. You know that when you have therapy for a medical health issue it doesn't necessarily map to a mental health.

So -- but from this perspective of the state, are you reaching out and working with the carriers to be sure that the mapping is consistent across the industry to what you're requesting in your MCE?

ROBERT CHESTER: The parity law keeps it -- see now you're making me -- to get into the context of the question I got to provide a little more summary of this.

REP. NUCCIO (53RD): I think that's beneficial for people because we throw around --

ROBERT CHESTER: Okay, then let me --

REP. NUCCIO (53RD): -- key terms, you know, NQTLs, QTLs and mapping, you know. A lot of people don't understand the industry jargon. So --

ROBERT CHESTER: Okay. I'll attempt to explain it a little bit. The law was maintained loose enough because as you -- as your point now, mental health and medical-surgical benefits have different clinical standards.

REP. NUCCIO (53RD): Correct.

ROBERT CHESTER: And different practices to manage and deliver that care, which are acceptable, so they wrote the federal law to keep it pretty generic enough that you could put it into these specific categories or buckets to do a -- to look at the not quantitative treatment limitation by general factors and sources within these areas to make sure that the -- that they're -- these practices, the practices are comparable and no less stringent within -- between the benefits to make sure that they're in parity.

So they looked at, you know, that you have the three benefit classes; mental health, substance abuse and medical-surgical benefits. And then what they -- to call out is sub-classifications, very generically, the impatient in-network, inpatient out of network, out of patient in-network, outpatient out of network, emergency care and prescription drugs. So, then, that comparative analysis is done in that way.

And again we look at -- in this report from the non-quantitative limitations that limit scope and benefits, there ways to restrict, which are entirely -- you -- that are entirely permissible in managing health care. The costs, variability and so forth.

Well, the NQTLs as I said, we looked at 13 of them. There's a lot more, as you pointed out, but these are the 13 most common, and so there is a quantitative approach that we took that's reasonable based on the numbers. So you have these NQTLs and we looked at how they develop the factors themselves, and the factors that go into them are things like medical management practices that limit the benefits based on medical necessity, all things that we know at being in the industry. Medical appropriateness experimental or investigation, prior authorizations, concurrent review, prescription drug formulary designs, network tearing, provider network standards and reimbursement rates, methods for determining the usual and reasonable customary rates, step therapy or no fail first practices, treatment exclusions specific within the benefits within those sub-classes, billing code practices are nuances that often occur, access to out of network providers, exclusions for failing to commit complete course of treatment that was required. They do that a lot to exclude restrictions related to geography facility types or providers specialties

So those are the factors in developing the NQTLs, and then there's general categories of sources when we're looking at those between the benefits, between the sub-classes to look for this comparability and this stringency assessment that's required in parity. And that the sources look at things like excess utilization, medical costs, escalation, provider diagnosis discretion, lack of clinical efficiency or efficacy, high cost variability, variation volatility and the length of stay for inpatients adherence to quality standards or non-adherence to the quality standards, claim type

actual experience. They look at high, you know, specific benefits or treatments or services that are of high rates of [fraud 26:30], current and projected demand for services and treatments. And that's kind of -- goes more into the weeds than I thought.

REP. NUCCIO (53RD): Yeah.

ROBERT CHESTER: You asked so I --

REP. NUCCIO (53RD): No. [laughs] I appreciate it. I think these are important conversations to have because when mental health parity came out, of course, the main focus of the government, all the states, the federal government and the carrier's was really focused in on the NQTLS to make sure we had parity in cost, parity in application. And I think the industry's had time to adjust to that and this helps, this helps, right. It helps form benefits, it helps form what's available to the insurers because if you try to build a plan that does not have parity in it, that parity level fails. And legally we're not allowed to sell a plan that is not in parity without having severe fines, right, so it helps.

It helps dictate conversations with employers who are the ones who are buying the insurance to make sure that they're building plans that have comparable mental health benefits with medical benefits. So that was really the focus for a long time, and NQTLs were kind of there, but not really fully developed and nobody quite knew what everybody was focusing in on. And like you said, it's a very vast field because even if you look at an inpatient stay, an inpatient stay on the medical side can be seven to ten days for a diagnosed illness, a inpatient stay for a mental health or substance use can be 90 days.

So, looking at the comparability of medical to mental health, there are intricacies that need to be

taken into consideration. And I appreciate that we're getting there because we just looked at, we just passed a mental health Bill the other day, which talks about something you mentioned, which I think is very big in the NQTL area, and that's depth of bench when it comes to mental health providers. And you look at how deep is your bench on the medical side for PCPs, now, how deep is your bench on a psychological side. And it's very shallow bench comparatively, and that's an NQTL, right, so this is helping drive the conversation of making sure that we have enough providers and enough services. And again, there's a lot of murkiness between matching medical to mental with that, but the conversations can be had that will help reduce that.

I have one other quick question. I could sit here and talk to you about this all day and talk about the forums and how to work better with industry to get the information that you want and the clarity required, but how are you finding -- 'cause I know again, this is one area that has not -- has even been less focused on yet and it's just starting to come up, but how are you finding the RX NQTLs because formularies and reviewing the adequacy of formularies in relation from a medical to a mental drug formulary perspective.

I'm sorry. I'm making your morning miserable, aren't I? [laughs]

ROBERT CHESTER: No. I mean, it's an excellent question, Representative. It gets a little thorny and we've had some pushback on that.

REP. NUCCIO (53RD): Yeah.

ROBERT CHESTER: I mean, without getting to the weeds, there's a lot of -- the prior authorizations on the formulary, you're trying to line up the formularies with the types of drugs in the

formularies between the benefits, the medical and surgical volume dispensing quantity amounts. As a department, we're getting much more in the weeds on that. But there's -- it's -- it -- if you can get a generic apples to apples to do the comparability assessment, the department believes on something, for instance, something like prior authorizations on the pharmaceuticals. That you can look between the benefits and see if there's, you know, you can follow through their development factors. You know, as written and in operation, and then also their final check on looking at the final results.

I can give an example. It comes to mind 'cause it happened with a few of the carriers. I asked for all the data and I look at the formulary and I look at their as written standards for something like prior authorization. That's really common with the --within the formularies. And I look at the as written and comparability, how they're developed and then their in-operation charts and demonstrations. And their practices are comparable. There's no real stringency issue that shows up but then when you look at the final outcome, there's a difference.

On the -- from as written standard perspective, the total vine within the formulary, within the mental health drugs and the medical-surgical drugs reflect a higher frequency of prior authorizations on medical-surgical, which is fine, but then the final outcome shows a significant, in the actual claim experience, the frequency occurring within substance abuse or mental health and not medical-surgery. So it's opposite of what the perspective prior authorization requirements are on those drugs.

So there are some explanation and backing in and saying okay, well, it could be a justifiable mean, a clinical reason to count for that because they're not always apples to apples. And that's kind of where the department is going and doing a whole 360-degree view of this process to make sure we don't

have any loose ends. And the industry, from what I understand is willing to work to improve the process.

REP. NUCCIO (53RD): I think that's my overarching thing here, mental health parity is, as you can see from the last, I don't know, 15 minutes 10, 15 minutes of the questions that I'm -- you and I are talking about, right. All the intricacies of how mental health parity, the law works and then the application and the ability of the state to understand it, and request the information from the carriers and the carriers to be able to translate that into claims and then into prior offs, say, a blood pressure medicine is much different than a schizophrenia medicine. Both of them would have a prior off, both of them could possibly have a 90 day, you know, thing up prescription and -- But laws that we've put in place regarding psychotropic drugs don't necessarily meet up with the allowability of that.

So we create some of the problems that we have, and I think overall there's a drought of information from the perspective that there's so much. And industry and the states have focused in on, first and foremost, do we have parity in pay, parity in how we're applying the benefit aspect of this? And now we're really all starting to kind of try and to dig into the rest of it, and I think it's a partnership.

So I'd just like to recognize that it's very complex and the relationship, at least the relationship that I've had with the state on -- and the carrier that I've worked with, it's a partnership. You know, we need to understand what you want, they need to understand -- you need --they need to understand what they need.

You know, so back and forth, I appreciate the openness and the ability to be able to continue to work on this so we're looking at truly how we can

get to parity. And I think industry and the states have done a good job of focusing in on most important thing first, next thing, next thing, next thing and getting all the way down be -- through all of this to have standardization of forums, understanding of what's coming. So when we talk about companies being out of compliance, I think it's important to recognize the confusion, you know, the how easy it is to not understand exactly what it is a state is looking for, or what it is industry can provide. And continuing to work, so we can start to look at things now that will improve mental health parity like depth of bench and understanding the differences between that inpatient stay from medical and an inpatient stay for mental health. And the differences between a prior off for a blood pressure med and a prior off for a schizophrenia med.

I think everybody's trying to do the right thing and I do think that standardization of the forums that industry is requesting with good mapping to be able to understand the claim volume, because the one thing I don't think a lot of people realize when you start talking about mental health parity, everything is based off of medical claims. You do not get claim dollars for mental health, it is medical claims that are being projected and then the cost-share benefits for those medical complaint claims compared to the cost-share benefits for mental health because mental health is very complex.

So there's a lot in here, I appreciate you going down Alice's hole with me there for a little bit just because, you know, I do this every single day. I'm in a middle of five market conduct exams right now, so luckily Connecticut's not on my list, but, you know, understanding how this works, I think is very important for the Insurance Committee. So the narrative doesn't get turned into industry is not compliant, it's that it is severely complex, and it's baby steps to make sure that we get there.

And it's the state is doing a great job of really making sure that we're driving benefits and plans in conversations with employers that create an environment where mental health is prioritized. as much as your regular wellness visit is mental health. And there's so much more that we can do to do that, but this testing helps in the fact that we're really starting to zone in on the NQTLs now because, you know, we're all good with the QTLs. Like we can't sell plans like that and we can't let providers build the plans that are not going to be in parity but the NQTLs, it's a twisted weave of craziness.

And I appreciate everything that you guys are doing to try to kind of standardized at least those 13 and I look forward to working with you in any way possible, anything that you need to try to help get into the mind of industry, if you want, you know. I'm -- I make myself available to you at a drop of a dime if it will help. So I want to thank you very much again for going down Alice's hole and answering my questions, so thank you very much.

SENATOR LESSER (9TH): Thank you, Representative. And I will say that I appreciate the deep dive into the weeds on this, but I do take issue with the question of the industry taking baby steps to comply with the law because mental health parity has been the law nationally, since what? At least 1996, they've had decades to comply with the overarching policy goals that by this date and by the federal government, which is that insurance companies should treat diseases of the brain, just like diseases of any other part of the body. And this law that we passed in Connecticut we passed two years ago to try to figure out why NQTL were springing up as additional barriers for people getting the care that they need.

And I'm frustrated that the department is today saying that the industry, despite additional guidance from the federal government, despite the

DOL self-analysis that was described, the 21st century Cares Act guidance, is still not getting the data that they need from the insurance companies that is required by law. And while I respect that the industry is making baby steps to comply with the law, I don't think baby steps are sufficient.

So I am personally frustrated that we don't have more compliance. I'm hopeful that the next time we have this hearing we will see an industry in compliance with the law. But, frankly, I see folks dragging their feet over decades and imposing new barriers as policymakers and states and the federal government try to solve problems, new problems get created. So I dispute the characterization that people are moving to address this, but I do agree with you that they have been taking baby steps. Hopefully, we will no longer see baby steps.

REP. NUCCIO (53RD): But, sir.

SENATOR LESSER (9TH): Yes, Representative.

REP. NUCCIO (5RRD): Sir, I would just like to kind of answer back to that. I think there's a, as you could see from the conversation, there hasn't always been clarity. You're talking about 50 different states that are asking for things in 50 different ways. There has not always been clarity on exactly what the state wants and how we map that. So it's not that there's any intentional baby steps being taken place it's, this is a process. You've been asking the state to get involved with carriers to discuss mental health issues, every state sees them slightly different and how an industry maps claims from that perspective to reporting, that doesn't necessarily match up even from the perspective of how they want it classified.

It's not that industry has not tried to provide this information, but if there isn't clarity from the state and the templates, something as simple as how the templates that they're asking us to fill out,

you -- I don't understand how we can provide information of that. There's no clarity that the -- that the state doesn't understand exactly what they're asking for to provide. The mapping between the two areas just comes down to a simple conversation of exactly how to provide the information.

So it's not that mental health parity isn't a priority for industry or even more importantly for employers because they're the ones who drive the better the benefits summaries. It comes down to how can we report to the state in a format that they want that we can provide that easily maps, so it's not that industry isn't trying, it's there has not been a lot of clarity from 50 different states on how each individual state wants to report this information.

So the fact that NAIC has recognized that and is looking for standardized templates across the country because of this lack of clarity -- It's easy to look and point a finger at somebody and say you're not doing your job when you're not providing the tools that you want for that person to do. So the fact that we're providing more standard templates and better mapping tables and an explanation of exactly what they're looking for, you know, it's easy to point to somebody and say you're not doing something when you're not providing the information to help them do it.

So in all fairness, I think this is -- there's enough shared blame to go around, and I think also there's enough willingness across industry and the states to work together to provide true mental health parity for everybody. There's no person out there maniacally twisting their mustache saying, you know, we don't want to provide this. Across the boards, mental health is one of the top priorities of the country, I would say right now. And I don't know a single person out there who's stomping their feet saying we're just not going to do this.

So, in fairness, I understand your frustration, I accept your frustration. I absolutely think it's valid. I just ask that you recognize that it's not intentional or maniacal on anybody else's perspective. Help me help you. That's what it comes down to, you know.

So we can't provide information that we don't understand, and I say this from a personal perspective as somebody who fills these out for 50 different states with 50 different templates and 50 different expectations of how that information gets there. So I'm very thankful for Mr. Chester coming and talking about this and recognizing the fact that there isn't clarity in these forms and looking for ways to make this better because this reporting is important and us doing it correctly, is important. And you and the state, us again, receiving this information to understand it is important. So I thank you again Mr. Chester for the information and the back and forth.

ROBERT CHESTER: Thank you.

SENATOR LESSER (9TH): Go ahead, Mr. Chester. I don't know if you were gonna say something.

No. I appreciate that perspective, Representative. I just want to clarify our role here. As Members of the Insurance and Real Estate Committee, we are overseeing the department and seeing their compliance with the law and seeing how industry is compliant with the law. I think we're going to hear later from the industry itself, and so that's the appropriate format for folks to talk about that and I appreciate that we have an opportunity to do that. But we have fulfilled an important oversight function and what we heard from the department was that industry is not complying with law, and that is problematic. We also heard that there has been additional guidance from the federal government to ease that and yet they're still not complying with

the law, and that to me is concerning. Especially since as low as past two years ago, following up on previous parity laws that have been passed that the -- and the reason we needed to pass a law two years ago was because the industry had erected new barriers.

And so we will hear later from the well compensated representatives of the industry who will share their perspective about additional barriers. But I want to be very clear on what our function is as the Insurance and Real Estate Committee, which is an oversight function and an oversight function of law. So thank you, Representative. And Representative Meskers, I see you have your hand up.

REP. MESKERS (150TH): Thank you. So I probably have a different perspective than Representative Nuccio. In terms of going to the compliance issue, the regulatory framework, I'm -- you're dealing with both the federal law and requirements at the state level for regulatory oversight in the industry for compliance with these measures. So your report, what percentage of the industry in Connecticut are you covering? Are you covering the self-insured? Are you covering the -- just the public markets or are you covering any of the fully insured products?

So I'm trying to understand like what percentage of the industry we're getting a report on here. And where your oversight lies on this.

KURT SWAN: Right, we are just covering the commercial market, so that would be the fully insured market.

REP. MESKERS (150TH): Okay, so you wouldn't have any oversight of either the state employees' healthcare and/or the municipal plans as they're currently formulated. Is that correct?

KURT SWAN: That's correct.

REP. MESKERS (150TH): Okay, so it's a limited scope of who you're reviewing at this point. And while I heard the back and forth with my esteemed colleagues, but what I was hearing and I can't get all the initiatives right, nor am I looking forward to memorizing the initiatives [inaudible 47:01] and God bless you. But what I'm hearing is that there's -- there was implement -- there was a regulatory framework put in for oversight for compliance, but that the forms and the structure and the standards of the reporting were not very clear as well, and that you're -- we're getting more guidance from NAIC as we're going forward. Is that true in how we're looking at this review process?

KURT SWAN: I think, as we've reviewed the information, I think we're looking at improving the reporting and looking at best practices to ensure that we get the information that we need, but I think it's important to note that, you know, with the information that we did receive we're not saying that they were non-compliant, was more that we didn't see clarity or we didn't feel that the comparative analysis, specifically in the in-operation was sufficient for our review. I think that was the concern that we raised.

REP. MESKERS (150TH): And that is in, again, just put it in a layman or English terms, that is in compliance with new regulatory framework. And how they filled out the forms and reported, there was a problem in getting the compliance because there was a problem with the framework of the reported. Would that be fair to say? Or understanding framework and reporting?

KURT SWAN: Maybe understanding and understand what the expectation [yours], and I think getting more guidance, but I still think we look at it is the carrier's responsibility to demonstrate compliance by providing documentation sufficient for our review. And I just think based on our review that we didn't feel the analysis provided was sufficient.

ROBERT CHESTER: Could I point out --

REP. MESKERS (150TH): But -- hold on. But it's like asking an SAT question without a framework for the response and questions, whether I get zero or 800 on that SAT, right. So I'm trying to understand how much was negligence, lack of cooperation, filling out the form, trying to figure out what the requirements were, in, you know. We write laws and if someone doesn't give me a framework that is still, how am supposed to fill out my reporting requirements? I may miss the reporting requirement and I'm technically in violation of the law, right. I'm trying to this from that point of view.

ROBERT CHESTER: Representative, can I -- I'm going to attempt to answer that. I, you know, and I -- it's probably not a great answer but Representative Nuccio pointed out that the -- it is a structure, and it is clarity of the regulations. The quantitative treatment limitations, for the most part, were a slam dunk. Quantitative means, you know, numbers, it's clear, it's in black and white, and there was no --

REP. MESKERS (150TH): As a banker -- Yeah, I was a banker, I can measure -- I can measure products.

ROBERT CHESTER: Yeah, so there was two prong approach on it a federal law, the quantitative treatment limitations, and there hasn't been any struggle with that. The non-quantitative treatment limitation is kind of an unwieldy imprecise structure, and it was -- it's unclear across the country with many states, and that's why Kurt and I are on that NAIC working group now specific to developing best practices for the non-quantitative treatment limitation because there's been so much pushback, so much conversation saying we're struggling here to understand what you expect from us in demonstrating that the non-quantitative treatment limitations are comparable within the

benefits, and we just want further clarity. So I think the issue to answer your question is that the structures, as set up as written, was unclear to all of the stakeholders, and I think that's fair to say.

SENATOR LESSER (9TH): Representative, are you still there?

REP. NUCCIO (53RD): I think he got bopped off.

SENATOR LESSER (9TH): I think we lost Representative Meskers. Representative Farrar. We can go back to Representative Meskers if he can resolve his connection issues. Representative Farrar.

REP. FARRAR (20TH): Thanks, Chairman. Hi, gentlemen, nice to see you. It could be where my fellow Representative was headed but I'm actually interested -- I certainly kind of hear where we're at now. I'd really like to hear from both of you to reiterate how do we ensure -- how are you going to ensure that we're in a different place with reporting a year from now? I'd really like to understand kind of the process steps to get there.

KURT SWAN: Well, I think first off, I -- it's just working with the carriers to understand what the -- clarifying what the expectation is. I think working on the reporting tool with how the information will be gathered and reported to us and working through that. I think one, you know, as we mentioned before, it's the in-operation competitive analysis and how that's reported. And it's really drilling down in that area to set what the expectation is providing guidance, providing clarity and also working on what the reporting tool for reporting that information to us. And I think if we can work on being clear with what the expectation is and ensuring that the carriers are consistent with how they provide that, it will allow us to conduct our analysis in a much more efficient way.

ROBERT CHESTER: And I can point out also that -- to Kurt's point, this was the first time that we -- it was new for us regulators and it was new for the industry, and I can tell you that we've had so much conversations with the industry through this to work through it. And we have set very clearly in many meetings with them that this is now the expectation, and so next year it's not going to be so much -- we're not going to have to explain the process and clarify it as much because it's -- we spent a lot of time doing that this first time around.

REP. FARRAR (20TH): So it sounds like from the standpoint of preventing this from a year from now, you all have certain benchmarks in mind to reach with the providers to ensure that everyone's on the same page, is that what I'm hearing?

ROBERT CHESTER: Yes.

KURT SWAN: Yes, and we've already started those discussions with the carriers and our plan is to have, you know, in the near future start that conversation, ensure that we have a product well before the reporting is required to ensure it's clear and understandable and in place. And one of my biggest goals, as well, is to ensure the efficient submission of that information and the clarity of that information as well.

REP. FARRAR (20TH): Thank you, gentlemen. It's wonderfully helpful, I think, for all of us, just hearing a little bit more in depth about what the process will look like. And as, Senator Lesser the Chairman indicated, you know, want to make sure you have the resources to do that and so that we can really bring transparency and bring this data more to light. And if there is anything as you go through this next year that is additionally helpful, you know, please bring that forward to us 'cause we want to make sure that when we get here a year from now we're not having the same conversation, so thank you for being here and for those answers.

SENATOR LESSER (9TH): And thank you, Representative. And I see Representative Meskers has joined us again, and promise we didn't boot you from the meeting, Representative. Before I turn it back to Representative Meskers, I just had a follow up on Representative Farrar's question.

You know, we're -- I appreciate that you're hopeful that this additional guidance will mean that the next time we hold this hearing the industry will be in substantial compliance with the law. As lawmakers, our job is to figure out whether or not we need to tweak the law in any respect, and the timing here is not super conducive to the legislative session. We're sort of the end stretch of things. Will we -- what point we'll we start to get a sense, or you will start to get a sense of whether or not the comparative analysis is sufficient, whether or not the industry is in substantial compliance? 'Cause I think we're going to be looking for guidance going forward about whether the law, as it stands, is efficient or whether additional tweaks are necessary.

So I'm wondering if that'll be, you know, in May of next year, by the time -- after the end of the legislative session, or we'll be able to get real information sooner than that about whether or not the current schemes work?

KURT SWAN: Senator, I think, to be responsive to that, I think we are analyzing the data now. I think our hope is to have findings and a plan with how we will take action if it is appropriate, hopefully, by the end of the year would kind of be a goal that we would have.

SENATOR LESSER (9TH): And so based on that we can have discussions with the Commissioner, his designate y about potential legislative changes if they're necessary based on that by the end of the

year, but that would give us time because we'll be back in --

KURT SWAN: Yeah.

SENATOR LESSER (9TH): -- February, okay. Thank you. Representative Meskers, sorry that you were booted off earlier.

REP. MESKERS (150TH): No, I -- literally my daughter in Washington loves to facetime. And I didn't have my glasses on and instead of hanging up on my damn daughter, who I love dearly, I hanged up on you. So I'm very -- I was very frustrated, and she got to hear my expletive so it was just as well, but I was hung up 'cause I was so frustrated.

SENATOR LESSER (9TH): Well, we're going to need you to hung up on your daughter.

REP. MESKERS (150TH): Yeah, that's right, she's 25, she's used to it, she's dealt with me before. So going back to the commentary, I appreciate that I'm getting the message from you that the compliance issue is a function of the somewhat subjective nature as we are implementing the regulatory reporting framework for compliance with the insurance regulation.

Now, I guess the only other point that I had or wanted to ask is that we feel this is an imperative issue to ensure equity in healthcare. And so the only problems I see is that the -- you don't cover either the self-insured market, which I guess is a regulatory framework because it's outside our purview because it's regulated by the NAIC at the federal level but importantly, you also don't regulate the state mandated plans, whether it's the pension -- whether it's the state employees or the municipal employees that are under a state plan.

So I think I, as a question, the amount of resources you have and the market you're covering now, do you

have adequate resources if we were to expand the requirement of your coverage to cover either the municipal employees or the state employee with this reporting requirement?

ROBERT CHESTER: Yeah. Kurt is not on. I mean, Kurt is the director of marked conduct. You know, if you're asking me and my perspective is that with -- what I see coming down the road and what's being developed for a standardized practice, you know, I think we had to evaluate in that for parity or/and equity because -- I mean, we've done a lot of work, we're, you know, not to toot our own horn, but the Connecticut Insurance Department has done a pretty extensive job in looking at data points and if that's the claim activity and every type of measure that produces a non-quantitative treatment final outcome. We've put together a program, and it's a very extensive. It's more extensive than New York, and New York is pretty good, I looked over it. Ours is good and it's gonna get better but having that structure, that template, the standard, whatever you want to do so that if there's more plans that are going to come over to our purview or oversight, I think we'll be able to effectively evaluate and assess them.

REP. MESKERS (150TH): Okay, perfect, thank you very much for that.

SENATOR LESSER (9TH): Thank you, Representative. Other comments or questions from Members of the Committee? and I will say I just got a -- you're not the only one I think who is having some connectivity issues, Representative Meskers. I think we're still -- I think we lost Kurt.

ROBERT CHESTER: Yep.

SENATOR LESSER (9TH): Okay. So hopefully, hopefully, we get him back. Are there other comments or questions from Members of the Committee? If not, thank you to Kurt and Rob for their

testimony, and we really appreciate it, and we will continue to work with the department on this issue going forward. We didn't think we had solved mental health parity with one law, and I think we may have to have additional efforts going forward.

So thank you both, and always appreciate the work with the department.

ROBERT CHESTER: Thank you very much.

SENATOR LESSER (9TH): Next up we have Hilary Felton-Reid from the Connecticut association of health plans.

HILARY FELTON-REID: Good morning, Senator Lesser, Representative Wood, Senator Hwang, Representative Pavalock-D'Amato, and Members of the Insurance Committee, my name is Hilary Felton-Reid. I'm a lobbyist with Robinson and Cole. I'm here on behalf of the Connecticut Association Health Plans, and my colleague Susan Halpin and is also on today, who I know needs no introduction for all of you. I'm here to present comments regarding the mental health parity non-quantitative treatment limitations to report that were due, pursuant to public act 19-159.

Behavioral health illnesses and substance use disorders are a critical focus of the health care delivery system, particularly as we focus -- as we face an ongoing opioid epidemic, a growing number of mental health cases emerging from the COVID-19 pandemic and increasing incidence of youth in psychiatric crisis.

Health insurance carriers and Connecticut share the concern of policymakers, advocates and families as it becomes more evident a new mental health crisis is upon us. Carriers are taking steps to meet the demand, including offering a broad array of coverage for telehealth, increasing availability of 24 hour mental health treatment hotlines and digital apps and supporting local organizations such as Mental

Health Connecticut and their 31 days of Wellness campaign and coordinating with Connecticut's Access Mental Health Program.

Additionally, under the leadership of Commissioner Mais in the Department of insurance, CTAHP is involved in discussions with various stakeholders to strategize around the recent influx of youth and psychiatric crisis presenting to the E.Ds. The association worked in good faith on the passage of the public act in 2019, as one of the first states in the nation to adopt this level of reporting and analysis contained in the reports before you.

Connecticut is at the forefront again of promoting parity and mental health treatment. Data is a critical component of any healthcare delivery discussion and this Act was an important step to bring accountability to a law, which has been in place at the federal level since 2008 but which has remained challenging to implement and evaluate for carriers and regulators alike.

NQTL compliance specifically remains complex, so advocates and regulators have looked to analyze data in a manner adopted by Connecticut in Public Act 19-159. Again, as one of the first states to adopt this level of intense data collection and analysis, we have learned lessons along the way, and we hope those lessons will be reflected in the future reports to come.

Data collection is complex. And it will take time to paint a picture that is actionable. The new requirements at the federal level adopted in the 2021 Appropriations Act in December of this year do closely align with Connecticut's law. The newly revised federal self-compliance tool used to be a tool that was designed for carriers to determine internal compliance with mental health parity that used to be a tool that was use -- that should be used for their own operations and that now will

become mandatory under the new federal changes adopted in December.

Additionally, carriers will be required to report this information to the federal government, and federal agencies will produce summary reports to Congress. Similarly --

HEATHER FERGUSON-HULL: Excuse me, your three minutes are up, please summarize.

HILARY FELTON-REID: Okay. Okay, I will just say that this was a very important step to bring accountability and transparency to mental health parity compliance in Connecticut. We have been in discussions with the department about how to better the collection of the information that they're looking for to ensure that their standardized approach, as has already been discussed in this hearing, we have a strong willingness to ensure that the law that was enacted is implemented as intended. And we are looking forward to having continued dialogue with the department and with all of you moving forward. I'm happy to answer any questions.

SENATOR LESSER (9TH): Yes, well thank you. And here I'll sort of echo my sort of the same questions I had where the department -- the representatives of the department earlier. You know, we passed the law two years ago, I understand that the federal government -- official federal guidance came out in December, but the department laid out a bunch of tools that are available to the industry. And yet they indicated that there was substantial non-compliance with the provisions of the law. So at what point will we know whether or not the industry is in compliance with the 2019 law?

HILARY FELTON-REID: So, I first do want to -- I don't believe that the department has indicated yet non-compliance with the law. I believe that they have indicated that there is still some additional information that they're looking for. As I

mentioned, we've been in discussions with them as they're furthering their review of what's been provided.

The reports and the information that has been provided are extremely voluminous. I'm sure you all have taken some time to look through what has been provided so far. There are several attachments and exhibits actually that were referenced in many of those reports that I'm not sure are actually -- have actually been provided on the Committee's website, yet. So I do think that there is a lot of information there that we're all still processing. I'm seeing the reports just as you all are.

I think that, you know, again, we are actively already pursuing discussions with the department to ensure that there's clear expectations of what information should be provided. I think that what has been most confusing is the expectations around specific analytics or, you know, specific data, even the federal guidance and the federal requirements do not outline specific analytics to be collected or analyzed, and I think that that is where a lot of the confusion lies. And there were not specifications really provided by the department, and that's not necessarily a fault of theirs. But I think also, again, as it has already been mentioned in this hearing, just a lack of understanding of exactly what specifications should be used to demonstrate the comparative analysis that they're looking for.

Again, there is a true willingness on behalf of the carriers to implement the law that was enacted in 2019. We worked on that law very much with all of you, and we are committed to implementing it as you intended. So we hope that we can have additional discussions on the exact reporting template that is to be used, which I think will help to provide some more consistency. And again, the changes at the federal level in December of just this year, there

is to be more additional guidance that will come out one year from now, in about one year.

That guidance is directed at NQTL analysis, and NQTL analysis has been, as I mentioned, the area that is most complex for people to digest and to understand and the area that has lacked guidance over time. So the new changes at the federal level, hopefully, will bring consistency across the board, across states and not only help provide the carriers with additional understanding of what the expectations are but hopefully the state and the department as well.

SENATOR LESSER (9TH): Thank you, and I appreciate that answer. And I also echo that I'm grateful that the federal government has taken action and passed national guidance that will hopefully help in the industry in compliance with the NQTL issue.

I guess, I echo my frustration that I expressed earlier, which is that the policy of the United States, as expressed with Congress and then through each of the things, has been that we want parity and it's been that way for decades. And yet, you know, I think we've heard from the public, we've heard from the department that that is yet a reality.

And so I understand what the industry is saying that this is confusing, that there's been a lack of guidance from the department until recently. I hear those excuses. I understand that, but I also understand that these are some of the largest and most sophisticated companies in the country, and at least many of your members are and would hope that, after decades, that we can finally get to a point where we have mental health parity and hopefully we can get that very, very soon. And if we don't, we'll have to pass additional legislation but it's -- you know, how many laws do we need to pass before this this is reality.

Other comments or questions for Hilary from Members of the Committee?

HILARY FELTON-REID: And could I -- if I could just respond to that if there aren't any.

SENATOR LESSER (9TH): Yeah, absolutely. Yeah.

HILARY FELTON-REID: So I just wanted to emphasize that the carriers do not object to mental health parity and we are not objecting to that right now. And I also am not sure -- you know, again, I just want to make sure that it's clear I don't think that it has been alleged in the reports or in the report from the department that anything that has been provided so far indicates -- it indicates a non-compliance with parity or even a lack of parity. And I do think, you know, there's further review to be had and we'll see, you know, what the results -- what results come of that but I do have to just emphasize that the carriers have been diligently working to understand what the department and the state is looking for in these reports. We've had many, many conversations to try to better understand the expectations there with the intent of implementing the law and remaining because I think that many of them are intent on being compliant with parity now and remaining in compliance moving forward.

So we're actively looking to engage in the mental health discussions moving forward. It's something that is very recognized from all carriers.

SENATOR LESSER (9TH): Thank you, and I do want to thank you for your work with this two years ago. I do recall that you really did get in the weeds and I appreciate that. So thank you for working with us on this issue and if, you know, I express frustration, it is not directly to you personally. I know that the -- there is a recognition of all parties that this is an important issue and I'm just

hopeful that we will see the data in place that the department needs.

Other comments or questions from Members of the Committee? Seeing none, thank you for your testimony. I think next up we have a Susan Halpin.

HILARY FELTON-REID: Thank you, Senator

SUSAN HALPIN: Thank you, Senator and good afternoon, I think. Oh no, still good morning, sorry. It feels like afternoon. Just want to say thank you to everyone, and Hilary and I are actually tag teaming today so just -- I just wanted to add a couple of things to the conversation.

Hilary is being very modest. She is -- had spent a considerable amount of time at Anthem working in their parity department when she made a brief hiatus from Connecticut down to Atlanta. And I'm pleased to say that we lured her back here to come work for us and are thrilled to have her back. So she does bring to the table a considerable amount of expertise.

The other couple things I just wanted to mention is, you know, Connecticut's always been at the forefront of mental health parity. And the good Senator alluded to our lead, you know, the state's leadership in that respect a while back. And the industry has always been in those discussions and at the table from the outset. I think if I -- if we could just -- if I could just summarize very quickly the conversation that I heard today is there's several different aspects of mental health parity and I think we've accomplished a lot of them. There's one left, and that is really how to measure not, you know, implementing, but how to measure NQTLs. And I do want to reiterate some of the things that have been said about our department.

Connecticut's laws and guidance and tools have often been modeled by other states and the federal

government. And so I think that they again have been at the forefront of this conversation and really shaping these policies going forward. So, you know, we understand the frustration, but we are also dealing with repeated changes as time goes along. So even if you have a tool that is being implemented, you know, with new guidance comes down from the federal government in just, you know, December or February of this year than that, you know, changes the landscape and everybody has to pivot and adapt to that. So I just wanted to point out those few things and also just, you know, say how pleased and fortunate we are to have Hilary on the team. So thank you.

SENATOR LESSER (9TH): Thank you, Susan. Any questions or comments from Members of the Committee? Seeing none, thank you for your testimony. Next up, we have Suzi Craig, followed by David Lloyd.

SUZI CRAIG: Good morning, Senator Lesser and Members of the Insurance and Real Estate Committee, Representative Wood, Representative Comey, Senator Anwar and other Members. Want to thank you for holding the hearing, thank you for this discussion, and especially want to thank this Committee for all of your work in 2019 to truly be the bridge.

So my name is Suzi Craig. I am from Mental Health Connecticut. I also help lead the Connecticut Parity Coalition and we work very closely with this Committee who helped build the bridge with the insurance industry to really work through how we can get this done, right.

You have my written testimony. I don't think I need to go through a lot of what's been discussed today. I do want to point out a couple of things about where the Parity Coalition stands that I think is really important for moving forward. There's been a lot of discussion today about gaining clarity and the complexity of the data, and I just want to reiterate some things that have been said,

particularly from Senator Lesser about the fact that the federal law has been in place since 2008. So we've had 13 years, and I think when that law came out, it's my understanding that everyone knew right away that it was too complex that we needed to understand how to get this done. So that's why these parity laws have been -- have come to be. You know, this law basically says, we need to comply with the federal law, right.

So when the Connecticut Parity Coalition in 2018 and 19 was setting out to figure out how we could ensure that this happens, that compliance is actually happening, we went to experts from across the country and folks that were working on building best practices and creating the model for this legislation. So please understand for some of the legislators on this Committee, who are not familiar with the backstory, that there are 30 other states across this country who have used this model effectively and they are in varying degrees of -- with their progress as well. Some of them are further along, some of them are behind Connecticut. But please know that the -- this legislation is based on those best model, those best practices and models.

So we have the tools, and with what's been mentioned before it's a self-compliance tool from the DOL and other guidance out there. So it is, I have to say it is a little bit frustrating to hear that there isn't clarity on how to understand if compliance is happening because we have all of these resources at our feet essentially. So here's the requests that I would like to make, I would like, 'cause I'm hearing a lot of, well, next year, next year, next year. That feels way too long for me. I feel like since we've had two years to understand what compliance looks like in Connecticut. That I would like to suggest if -- and I know we're running out of time with the legislative session but can we amend the 2019 Bill to change the timeline? Can we have another public hearing in, you know, November,

December to hear from the Insurance Department to see where we're at?

HEATHER FERGUSON-HULL: Excuse me. Excuse me, your three minutes are up, please summarize.

SUZI CRAIG: Thank you, I will. So my request is essentially can we revisit, and as Senator Lesser was suggesting, tweak the current law or improve and accelerate this process because we've already been waiting and waiting and waiting for the data, so the data is coming in, and now we need to put those best practices and those tools in place to accelerate that clarity so we can understand where compliance is happening and where it's not. Thank you.

SENATOR LESSER (9TH): Thank you, Suzi. And thank you for that suggestion. I think -- well, this Committee can always hold the hearing at any time. We could ask for information from the department. Where I think we might come into trouble is if we're changing the timeline on reporting data from the industry that there might be some implementation issues, so I can see that being a potential barrier but just speaking for myself and not for the Committee as a whole, I don't see an issue with us coming in at some point prior to, you know, or statutory times to have a check in with the department to figure out where are we, you know, do we need to make additional improvements.

It may be more complicated to say, hey, we're going to now require reporting data every six months by the industry as opposed to annual do that. I can imagine -- and I don't represent them, but I could imagine that might be a problem, just a general issue. Representative Wood.

REP. WOOD (29TH): Thank you for your testimony, Suzi. I just wanted to say that, you know, as long as we are following the rules, and I would love to have a follow up. And, you know, I think that there's a need for us to really address these

concerns and do as much work as we can in the off session time on just expanding the, you know, bench of our mental health care providers and really taking this issue and making it a top priority, considering everything that we have going through and what we're hearing from our constituents. And I just want to say thank you for those suggestions and we will definitely take them under consideration.

SUZI CRAIG: Thank you, Representative Wood. I appreciate that.

SENATOR LESSER (9TH): Thank you, Representative. Other comments or questions for Suzi from Members of the Committee? If not, thank you very much for your testimony. The last two already. Harsh but swift justice hearing, I guess, on this Committee. Next up David Lloyd from The Kennedy Forum.

DAVID LLOYD: Great. And thank you, Senator Lesser, and Representative Wood, Members of the Insurance and Real Estate Committee for the opportunity to testify today. My name is David Lloyd. I'm a senior policy advisor with The Kennedy Forum, which was founded by former Congressman Patrick Kennedy, lead author of the Mental Health Parity Addiction Equity Act.

In close partnership with the American Psychiatric Association we've been working across the country to improve oversight and compliance with Federal Parity law. And we simply applauded the Connecticut Public at 19-159 back in 2019, Connecticut was one of the first states to act and it's now been followed by roughly half of states enacting or having similar requirements.

Connecticut also helped pave the way for important piece in federal action with the enactment of Consolidated Appropriations Act of 2021, which amended the Federal Parity law to explicitly require plans and issuers to conduct detailed parity

compliance analyses, they're nearly identical to what is required by Connecticut law.

Given the COVID-19, I believe increases in mental health and substance use needs, thorough review of these analyses are now critically important. Fatal overdoses have surged in the last year with 13% increase in Connecticut alone. So these -- the analysis of what plans have submitted can literally mean the difference between life and death.

I will say that the Federal NQTL rules, as well as rules on non-quantitative treatment limitations of financial requirements have been in place, a few regulations since 2014. So insurers have had more than seven years to comply. Yet across the country insurers are still not adequately complying with the federal parity laws and QTL rules and falsely claim that guidance has been shifting in a matter that prevents compliance.

Frankly, I think there should be a little sympathy for insurers who are not complying with the NQTL requirements. When patients are subject to these impermissible treatment limitations it is not a mere convenience, it can mean a deterioration, disability, bankruptcy, homelessness and even death. So the experience of these patients should really be put at the front and center of all these conversation.

In April, the Department of Labor issued new guidance on the Consolidated Appropriations Act, which simply said what should be in these analyses and simply said that generalized statements without specific supporting evidence and detailed explanations of compliance were insufficient. So I think, you know, Connecticut should insist on sufficient analyses, consistent with the new federal guidance. Connecticut can also request at any time a plans, parity compliance analyses under the new federal rules, and they should do so to demand that

planned submit sufficient compliant and compliance analysis if the initial rounds were not sufficient.

So this -- just in closing, this is a critically important area. We've been working with other states to help them beef up their parity compliance analyses of these reports and to have the expertise needed. And we're happy to work with the Connecticut Insurance Department to make sure that we're finally making parity a reality in the State of Connecticut. So thank you for the opportunity to testify, happy to answer any questions you may have.

SENATOR LESSER (9TH): Thank you, David, for that, and I also want to thank Patrick Kennedy, who was a really terrific partner on the ground with us when we passed this two years ago, and a part of a coalition, including Tim Clement, who couldn't be with us this morning, and we really appreciate all the work of the Kennedy Forum on this.

Do you have -- and I share your frustration. The rules being in place since 2014 and yet, you know, we hear that confusion remains and we have a lack of clarity to how to comply. I'm very frustrated that the department isn't able to say that it has the information required by the law. Do you have suggestions or other things that other states are looking at about how -- you know, is there any additional action, legislative action that Connecticut needs at this juncture that you think will be helpful to getting that data to ensure compliance with -- what more we need to figure if parity is impacting most?

DAVID LLOYD: Yes, I don't want to tell you not to pass additional legislation. But I think that the -- your existing legislation should have the tools that are really needed, and I -- the department to go testify that it's working with the NAIC, MHPAEA working group, which is terrific because they're really worked on best practices and, you know, really having consistent reporting, you know, forms,

et cetera, to help standardize this so that plans are not having to fill out 50 different states, you know, 50 different forms across the country. And we certainly have been pushing that, you know, and had our six step, you know, compliance reporting, which really aligns with the Department of Labor self-compliance tool.

So, you know, I think most of the reporting templates tend to be aligning now. You know, I think that the department, at least in my meeting of the new federal law has the power at any time to go to the department, to go rather to the plans and say, "We want your parity compliance analyses. And if it isn't meeting, you know, these standards as laid out in the Department of Labor guidance, we want you to update them and produce the materials in a manner that we think, you know, do, you know, demonstrate compliance. "

I'd also say that, you know, in terms of the in-operation, you know, data that is collected, which is absolutely essential. If those show disparities and the parity compliance analyses, you know, are not sufficient to demonstrate compliance or explain why there are differences, it's -- I think it's our view that the plan should be deemed to be non-compliant.

And whether that means just, you know, corrective action or whether it means fines, you know, I think that that's up to the department. But, you know, there -- if there aren't sufficient analyses, you know, we're encouraging regulators across the country to demand that those analyses be made sufficient. And if the realities of, you know, how the benefits are constructed to being operationalized don't allow a conclusion of compliance, then the underlying, you know, benefits or how they're operationalized must be changed.

So you know, we think that there's -- obviously, this takes time, but, you know, there's really not

much time to waste given the increases in need we're seeing and putting patients first in this discussion, we really think is critical.

SENATOR LESSER (9TH): I agree with you on the time sensitivity and will work with the department to see if that is -- So do you think that the standardization of the forums by NAIC is something that's likely to, you know, to bring the industry into compliance with the reporting, with the comparative analysis reporting requirements, is that --

DAVID LLOYD: Well, I certainly think that having consistent -- more consistency across states will help. You know, the -- several states use, you know [indiscernible 1:29:14] mostly forms that mostly align with slight differences. Those differences really should not inhibit compliance in any meaningful way.

You know, many of these insurers are large corporations, which should, frankly, have the ability to, you know, to meet different states, you know, regulatory requirements, as well as the requirements of the Federal Parity Act.

So you know, certainly think things should be, you know, streamlined and make consistent but where there are slight differences, you know, I don't think that's an excuse for not complying with any state or federal law.

SENATOR LESSER (9TH): And so this may be an unfair question but we got a massive data dump from the industry that we now -- that we're now privy to, and I understand, and now analyzing that data is the hard part that's what we're -- the conversation today is about. But I didn't know if you had a chance to look at data that we did and making any heads or tails of that. Is that something that you have the resources or the time to do?

DAVID LLOYD: You know, I think it's a major problem when they're these huge data dumps and this huge production of documents which, frankly, or sometimes designed -- if not designed to mislead, you know, have the effect of not being able to make, you know, heads or tails of what, you know, what is actually happening.

I do have the guidance from the Department of Labor right in front of me. And I'll just quote it, they say that you -- quote, "generalized statements without specific supporting evidence and detailed explanations or a mere production of a large volume of documents without a clear explanation of how or why each document is relevant to the comparative analysis is insufficient," so to the degree that that has happened in Connecticut and I looked -- I haven't, you know, gone really deep into all the -- everything that was submitted yet, but to the degree that that happened, I would think that the department should demand that that -- particularly with this new guidance from the Department of Labor that will plan submit their comparative analysis that are now required under federal law that your -- those should be corrected in a manner that is consistent with what the recent federal guidance, you know, suggested what's necessary. Or actually, you know, said was unnecessary.

So, you know, I think that if there's just been a massive data dump. The Department, you know, should hope -- should work to, you know, correct that so that they can actually have the data they need and the analysis that they need to actually determine compliance for each NQTL.

SENATOR LESSER (9TH): So base -- you know, the conversation today has largely resulted around when are we gonna get the comparative analysis in place, and what you're telling us is that under the federal law, the comparative analysis should be in place at any time. And so we don't necessarily need to pay attention to Connecticut law about reporting to the

department, we could decide to hold the hearing in November or in December or in January, but prior to the next legislative session, that the department provide updated comparative analysis reports because those are things that the industry should be providing on an ongoing basis anyway.

DAVID LLOYD: Yeah, as -- it was 45 days after enactment of the federal, you know, Consolidated Appropriations Act, which was February 10th. All plans had to have these parity compliance analyses conducted. Now, it didn't say in what, you know, exactly what form that had to occur. Although the Department of Labor laid out, you know, guidance of what it must contain. So even though, you know, Connecticut and other states now have an annual reporting requirement, the Consolidated Appropriations Act makes very clear that any, you know, state insurance department can request at any time the -- under federal law, you know, the plans comparative analysis.

So I would think that that would provide a powerful hook for the department, you know, to really demand that the analyses that they have already received and the plans under federal law are required to have conducted any given point that, you know, those be sufficient to demonstrate compliance. So I think the two working hand in hand can be quite powerful. Yeah, I would defer to you on, you know, what the Committee can do at any given point in time, but that would make sense to me.

SENATOR LESSER (9TH): Great. And just in terms of timeline, in terms of the NAIC standardized reporting of the things that that's the excuse for why, you know, the reporting isn't up to snuff. What the timeline on when that will be streamlined or --?

DAVID LLOYD: Yeah, it is -- so it's a working group, so I don't think that they have power to impose upon the states that are working as part of

that working group, like these are the forums that you should use. It's more of a sharing of best practices and tools to hopefully harmonize them across states, so I think it's then voluntary, you know, for each state to use the tools that, you know, hopefully, more of us on with each other. But you know, I think the idea that, you know, we simply don't have the form, we simply don't, you know, there may be guidance in the future, you know, I view those as largely red herrings. But I do agree that we should be working towards standardization, you know, across the country and that that will help improve compliance. But that's definitely not an excuse for why they were, you know, non-compliant NQTLs.

SENATOR LESSER (9TH): Got it. Thank you very much. Other comments or questions for Mr. Lloyd from Members of the Committee? If not, thank you very much for being here today. So in that, any -- in the list of folks that we had publicly released to -- who were scheduled testify, David was the last person that we'd had, but I -- it was brought to my attention this morning that Missy Olive had attempted to register and had been unable to do so for technical reasons, that she's with us here today. So with the Committee's indulgence, we have Missy, and then Missy will be the last person to testify before the Insurance and Real Estate Committee. Missy, the floor is yours.

DR. MISSY OLIVE: Thank you, Chairperson Lesser and Wood, and also Ranking Member Hwang and Pavalock-D'Amato and the remaining Members of the Insurance and Real Estate Committee. I'm Dr. Melissa Olive. I'm the chief clinical officer for Cultivate Behavioral Health and Education, we have 11 states that we provide services in, including the State of Connecticut. I'm not here representing Cultivate, but rather the Board of Directors for the Connecticut Association for Behavior Analysis. I am the Chair of the public policy and legislative outreach Committee.

On behalf of CTABA, I want to thank you all for first the telehealth Bill that you all worked very hard on. We're super appreciative of that. And also thank you for the time today on mental health parity. I would like to note that my PhD advisor was Dr. Mary McEvoy who was tragically killed in a plane crash with Senator Wellstone, and as you all know, Senator Wellstone did an amazing amount of work on this very topic.

I did submit the written testimony so y'all can look over that. I do just want to point out a couple of things, these -- well, patient limitations that we're seeing, especially from Aetna and also previously from Optum/United, this is a serious problem. As you know, particularly limiting the services in schools is problematic. The schools do not have the resources to meet all of the behavioral challenges for these individuals and they are more than willing to work alongside behavior analysts in addressing those needs. And so we need to stop these non-quantitative limitations of location, as you know, it does not happen on the medical side.

We also want to point out that children with autism are the -- are often the only ones who are allowed to obtain the applied behavior analysis therapy, ABA, therapy. And that is really unfortunate because other children, as demonstrated in our research literature, benefit from ABA and they should not be discriminated against because they don't have the right diagnosis.

I know this is not a quantitative limitations hearing, but we submitted a great deal of data for you all to better understand the kind of limitations that our patients are receiving or not receiving when we submit our treatment plans, and I think it's really important that we provide an attentive service. So every six months we're required to submit and report asking for those hours for the next six months, and those reports are anywhere from

50 to 70 pages in length in order to document the medical necessity, and I'm quite sure that the medical side does not have to submit that same type of documentation.

I do want to point out that Representative Nuccio's point about diagnosing is also spot on. We know that we can diagnose children with autism as early as 12 months. And yet the average age of a diagnosis for a child with autism is five years. And so that window of when they should be diagnosed to when they are getting diagnosed is partly due to the lack of availability of clinicians to provide those diagnoses.

I finished early, which never happens. Are there any questions?

SENATOR LESSER (9TH): Thank you. And I did have a chance to see your written testimony and there's quite a lot there and it does raise some questions, and I think we have some conversation with the department in the industry about the specific questions that you raised there. So I wanna thank you for your testimony. I'm glad we were able to figure out a way to solve those technical issues here this morning.

DR. MISSY OLIVE: Please note, Connecticut ABA is more than happy to work with you all in any way. I also met a few people today so we're super excited about connecting with other people.

SENATOR LESSER (9TH): Great. Thank you very much, Doctor. Are the questions or comments? There's not. Thank you very much for your testimony.

And that -- with that, we have concluded this -- the list of people scheduled to testify from the public hearing. I just wanna thank everyone in the Committee for its indulgence. This is an unusual time for a Committee public hearing. We did that because of the statutory language in the law passed

in 2019. And we don't plan on having too many more public hearings of the Insurance Committee this legislative session, and we'll go back to your regularly scheduled legislative. And with that, thank you very much everyone for joining us today and stay tuned, we may plan additional action on mental health parity in the future. And take care.

And with that, I would move to adjourn the public hearing.