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February 9, 2009

RE: AN ACT to amend the mental hygiene law, in relation to the effectiveness of mental health parity; and to amend the insurance law, in relation to post traumatic stress disorder.

A.4752 (P. Rivera)

S.185 (Morahan)

**MEMORANDUM IN OPPOSITION**

Submitted on behalf of the Blue Cross and Blue Shield Plans

The New York State Conference of Blue Cross and Blue Shield Plans strongly oppose enactment of this legislation which could significantly increase the cost of health insurance in New York. This bill would: 1) add "Post Traumatic Stress Disorder" (PTSD) to the list of biologically based mental illnesses that insurers and health maintenance organizations are required to cover under "Timothy's Law"; and, 2) authorize the Commissioner of Mental Health to participate in the ongoing study the impact of Timothy's law. Recent changes to the Federal "Mental Health Parity" law make the changes proposed by this bill unnecessary with respect to many groups. For those groups to which this bill would apply, which are, for the most part, small businesses, the addition of this overly broad disorder would increase the cost of providing mental health coverage to employees. As small groups have the option not to provide such coverage, the likely effect of this bill will be to reduce, not increase, access to services. Moreover, Timothy's Law currently authorizes a study of the impact of such law on the cost of coverage. Authorizing additional participation of the Commissioner of Mental Health in the ongoing study of the impact of Timothy's Law is likewise unnecessary and will only delay the completion of the Insurance Department report.

**1. RECENT CHANGES TO FEDERAL LAW MAKE THIS LEGISLATION LARGELY UNNECESSARY.**

The recently enacted changes to mental health parity on the Federal level make this bill unnecessary with respect to large groups (51+ members). As members of such groups will now receive full mental health parity, the “biologically-based illness” list no longer applies and therefore legislative additions to the list, such as that proposed by this bill, have no practical effect. With respect to small groups, the basic structure of Timothy’s Law will remain intact. However, as insurers only must “make available” such benefits to small groups and it is the groups’ decision to provide such coverage, additions to the “biologically-based illness” list will likely impact very few New Yorkers and may even result in small groups choosing not to provide such coverage at all due to the associated increased costs resulting from adding this benefit.

**2. AS DRAFTED, THIS BILL WOULD CREATE AN OVERLY BROAD CATEGORY WITHIN THE CURRENT BIOLOGICALLY BASED MENTAL ILLNESSES COVERED UNDER “TIMOTHY’S LAW.”**

As drafted, this bill would add “Post Traumatic Stress Disorder” (PTSD) to the list of biologically based mental illnesses covered under Timothy’s Law. As mentioned above, this list is now only applicable to small groups.

Currently, the DSM-IV provides a very broad definition of PTSD in which symptoms can start hours, days, weeks, months or even years after a traumatic event. Specifically, the DSM-IV lists a series of factors classifying a condition as PTSD. However, similar to the proposed bill text which lacks a definition of PTSD, these factors represent a myriad of symptoms which could be interpreted to classify any event causing stress as PTSD. In other words, limitations are non-existent in the DSM-IV as well as the proposed bill in the classification and diagnosis of PTSD. For example, under these factors a person witnessing a car crash could be diagnosed with PTSD. This poses a serious problem as there is no objective biological test to identify whether a person has PTSD. Therefore, the decision regarding whether a person has PTSD under the DSM-IV factors and the proposed bill remains completely subjective.

Moreover, the sponsors of this legislation purport that the addition of PTSD to the list of biologically based mental illnesses is necessary in light of the high prevalence of PTSD among veterans who have been in combat. However, combat veterans are already eligible for PTSD treatment and coverage from VA hospitals through the federal Department of Veteran Affairs.

New York currently has one of the most extensive list of health insurance mandates in the nation (approximately 43 individual mandates according the Insurance Department) as well as one of the most inclusive Mental Health Parity Laws enacted by any State. Against this backdrop, are at least 75 bills containing additional health insurance mandates that have been introduced into the Legislature this session. These mandates play a significant role in the increased cost of health insurance for individuals and small businesses.

3. **ENACTMENT OF THIS BILL WOULD BE IRRESPONSIBLE AS THE FULL COST IMPLICATIONS OF TIMOTHY'S LAW HAVE YET TO BE REALIZED.**

This bill seeks to add a significant and broad category to the list of biologically based mental illnesses covered under and established by Timothy's Law very soon after the original and comprehensive list of biologically based mental illnesses took effect. The implementation of Timothy's Law was a coordinated effort between many stakeholders to ensure that New Yorkers were provided detailed information regarding the changes in their health insurance policies. Specifically, the Departments of Health, Mental Health and Insurance as well as health plans provided detailed information through website postings and direct mailings that included information on new benefits and increases in premium rates due to Timothy's Law. Enactment of this bill would dismantle the efforts of many involved with this process as it would result in additional notification procedures as well as increased premiums.

Furthermore, due to the complexity of the implementation process, health plans are still working to determine the exact costs of providing coverage for the original list of biologically based mental illnesses. To enact legislation adding to this list prior to the completion and realization of the cost of Timothy's Law could have a detrimental effect on both employers and individuals and will only further complicate what has been a laborious implementation process..

4. **ENACTMENT OF THIS BILL WOULD BE PREMATURE IN LIGHT OF THE STUDY BEING PERFORMED REGARDING THE EFFECTIVENESS OF TIMOTHY'S LAW AND THE EXISTENCE OF THE MANDATE REVIEW COMMISSION.**

Enacted as part of Timothy's Law, the Superintendent of Insurance, in consultation with the Office of Mental Health, must conduct a study regarding the effectiveness of mental health parity. As part of this study the Superintendent was mandated to conduct a comparison of the type and number of illnesses covered by Timothy's Law over a two year period and report to legislature on or before April 1, 2009. Given that this study has not yet been concluded, adding to the list of biologically based mental illnesses would be premature. Moreover, adding a more independent role for the Commissioner of Mental Health to the study process will only delay the release of the report.

Finally, in 2007 legislation was signed into law creating of the Mandate Review Commission. This creation of this commission represented a critical step taken by the Legislature to control the cost of health insurance across the state. Given that Timothy's Law is approximately one year and two months old, employers, individuals and the State could benefit from the Commission's review of the proposed addition of PTSD to the list of biologically based mental illnesses covered under Timothy's Law. Moreover, the Commission could provide the detailed cost estimates necessary to fully comprehend the impact of the inclusion of such a broad benefit.

For these reasons, the Blue Cross and Blue Shield Plans respectfully oppose enactment of this bill.

Respectfully submitted,

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