

Thank you, Mr. Chairman, and thanks to the members of the ERISA Advisory Council for addressing this important issue.

My name is Phil Keller and I live in Montpelier Vermont. Two years ago, I retired from the Vermont Department of Financial Regulation, the state's primary insurance regulator, where I held a variety of positions over the course of 30 years, including Enforcement Attorney, Director of Rates and Forms, Director of Insurance Regulation and Acting Deputy Commissioner of Insurance. Between 2002 and 2004 I was also the state's Deputy Commissioner of Securities. I'm speaking today in my own capacity and not as a representative of the State of Vermont.

Fourteen years ago, the Vermont Insurance Division issued Bulletin 127, which prohibited disability insurers from excluding or limiting the coverage of disabilities resulting from mental health conditions. The bulletin was based on 8 V.S.A. Section 4062, Vermont's mental health parity law, which prohibits unjust or unfair policy terms in health insurance policies, which under Vermont law includes disability insurance. As the bulletin stated, Vermont has long been committed to mental health parity and in 1997 enacted one of the strongest mental health parity laws in the nation. Bulletin 127 is still in effect and as of my retirement two years ago was still being enforced.

Before the issuance of Bulletin 127, disability insurers lobbied the commissioner and told her that if disability policies were prohibited from excluding or limiting coverage of mental health conditions the cost of disability insurance would go up significantly, perhaps as

much as 25%. Nevertheless, the Commissioner decided to issue the bulletin because she thought it was a fundamental matter of equal treatment that was mandated by state law.

From 2008 to 2014 I was the Director of Rates and Forms in charge of the rate analysts who reviewed disability policies. Although the analysts were all aware of the parity requirements of Bulletin 127, not once during those six years did an analyst tell me that he or she had been required to reject a disability filing because it excluded or limited coverage for mental health disabilities.

From 2015 to 2022, I was the Director of Insurance Regulation for the Department and worked closely with the Consumer Services section on healthcare related issues. We received a lot of complaints about the affordability of other kinds of insurance during that period, especially long term care insurance, but not once during those seven years was I made aware of complaints from either consumers or agents that the cost of disability insurance had risen because of the required coverage of mental health conditions. This was in sharp contrast to other types of insurance, like major medical, long-term care and automobile insurance, about which we frequently received affordability complaints.

My experience was confirmed by others who examined the issue. In 2015, an Attorney named Susan Fendel with the Mental Health Legal Advisors Committee of the Commonwealth of Massachusetts visited our office and reviewed eight years worth of disability rate filings made in Vermont by five major insurers. Her conclusion was that

Vermont's requirement of coverage for mental health conditions had little or no impact on the pricing of disability policies. Ms. Fendell wrote a letter to the Interstate Insurance Product Regulation Commission on October 27, 2015 confirming these findings..

Finally, to address concerns that requiring policies to cover mental health conditions would tie insurers' hands from an underwriting perspective, I would like to point out that the last sentence on the first page of Bulletin 127 also states that "[n]othing in this bulletin should be interpreted to mean that carriers are prohibited from underwriting the sale of disability insurance products in a manner otherwise consistent with the law."

What this means is that while disability insurance policies in Vermont can't exclude coverage of mental health conditions or impose any kind of time limit on coverage, insurers can underwrite applications and decline to issue a policy to someone with a documented history of mental health disability, just as they can decline to issue a policy to someone with a documented history of physical disability.

Despite the fears expressed by the industry back in 2008, Vermont, as of the date I retired in 2021 has a thriving disability insurance market and policies have remained both affordable and widely available.

Thank you for your time.

