

## ***Statement***

### ***Insurance Association of Connecticut***

Labor and Public Employees Committee

February 26, 2009

HB 5249, An Act Concerning Timely Medical Treatment For Injured Workers  
HB 6194, An Act Concerning Additional Workers' Compensation Presumptions  
For Firefighters, Police Officers And Emergency Rescue Workers  
SB 363, An Act Concerning Workers' Compensation And  
Access To Health Care

HB 5249, An Act Concerning Timely Medical Treatment For Injured Workers

The Insurance Association of Connecticut opposes HB 5249, which would establish unfair and counterproductive penalties under the Workers' Compensation Act.

HB 5249 would require the employer to schedule an IME within thirty days of receipt of the proposed treatment plan on an injured employee which it believes is unnecessary or unreasonable. It can take four to eight weeks to get an IME scheduled, depending on the type of doctor in question. An IME occurring within the thirty day period may be a practical impossibility. It would be fundamentally unfair to negate the employer's rights based on that basis. In addition, HB 5249 would operate to make it much more difficult for the insurer to perform proper utilization review procedures, making it more likely that inappropriate care may be administered, to the employee's detriment.

HB 5249 would require payment of 100 percent of salary during any contested period, instead of the standard compensation rate, if the employer "loses" an IME.

Penalizing the employer for properly exercising its rights is clearly unfair. HB 5249 will have a chilling effect on the exercise of proper utilization review procedures, and will cause unnecessary increases in the cost of medical care in the workers' compensation system.

Section 2 would allow the injured employee to record an IME "by way of any medium which creates an audio or video recording." It is not clear how such a recording would be used, and what standards, if any, will be established for its use. As written, a cell phone recording would be acceptable. Section 2 is invasive and unnecessary.

Section 3 would also subject the employer or insurer to civil penalties for "failure to promptly provide medical services." What does that mean? Section 3 is overly vague and unfair, it improperly establishes a "presumption" of unreasonable delay, and it will only serve to again improperly chill the efforts of an employer or insurer to legitimately review proposed medical treatments.

IAC urges rejection of HB 5249.

HB 6194, An Act Concerning Additional Workers' Compensation Presumptions for Firefighters, Police Officers and Emergency Rescue Workers

The Insurance Association of Connecticut opposes HB 6194, which would provide that any police officer, firefighter or emergency rescue worker who contracts hepatitis, tuberculosis or meningitis would be presumed to have contracted the disease in the course of employment.

For the Workers' Compensation system to work properly, a causal link must be established, by the claimant/employee, between the employee's work and the injury or illness that afflicts the employee. IAC knows of no basis for HB 6194, nor why that standard burden should be reduced, and reversed, for emergency rescue and public safety workers. By definition, these diseases are communicable and can be contracted by various means that have nothing specific to do with employment. How would the claimant know if he or she was or was not exposed to the disease outside of employment?

In fact, a CDC study (July 28, 2000) found that "first responders (firefighters, EMTs and paramedics) are not at greater risk than the general population for HCV (hepatitis C virus) infection . . . ."

Similarly, IAC would oppose subsection (d), which would create a presumption for firefighters who are diagnosed with multiple myeloma, non-Hodgkin's lymphoma, prostate or testicular cancer. Once again, for the workers' compensation system to work, a causal link must be established by the employee. Presumptions, no matter how well-intentioned, subvert the need to properly establish such a link and expose the system to potential misuse and abuse.

IAC urges rejection of HB 6194.

#### SB 363, An Act Concerning Workers' Compensation And Access To Health Care

The Insurance Association of Connecticut opposes SB 363, as we can see no reason for such a bill.

SB 363 states that any employer having an "unresolved" workers' compensation claim for five years shall be entitled to a medical reexamination of the claimed injuries, by a physician from an approved list, at the expense of the employer or insurer.

It is unclear what "unresolved" means in SB 363. After five years, if a case is still pending it is not clear what another medical examination would accomplish. If the claimant has not reached maximum medical improvement after five years, it is not clear why the claimant would ask for such an exam.