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Dear Senator Winfield, Representative Tercyak, and Distinguished Members  
of the Labor and Public Employees Committee:

Thank you for your consideration of HB 5875.

HB 5875 (1) clarifies existing judicial and administrative precedent under  
the State of Connecticut Workers' Compensation Act that any unpaid  
workers' compensation benefits to which an injured worker was entitled  
may be claimed and pursued by his or her estate, surviving spouse and  
children, and (2) incorporates existing case law and statute to ensure that  
spouses in a same sex marriage have the same rights and privileges as other  
spouses. We have included a detailed analysis.

#### **CLARIFICATION OF PAYMENT OF BENEFITS**

Connecticut has an established practice that allows estates to file  
claims on behalf of a decedent. Conn. Gen. Stat. 52-599 (a), provides that  
"[a] cause or right of action shall not be lost or destroyed by the death of any  
person, but shall survive in favor of or against the executor or administrator  
of the deceased person."

This statute has been expressly applied to workers' compensation  
claims. See Fredette v. Conn. Air Nat'l. Guard, 283 Conn. 813, 835 (2007);  
Greenwood v. Luby, 105 Conn. 398, 400-401 (1926). A claim for indemnity  
benefits can and does survive the death of the claimant. See Estate of  
Flouton v. Can, Inc., 4379 CRB-7-01-4 (3-12-2002) (estate may claim a  
benefit as an estate asset if benefit accrued during the claimant's lifetime).

Our Compensation Review Board has affirmed the estate's right to recover accrued disability benefits. See York v. General Dynamics Corp. No.1770 CRB-2-93-6 (3-9-95) (a past claim for temporary total disability made after the claimant died); see also Sellew v. Northeast Utilities, 1422 CRB-8-92-5 (4-7-94); Belanger v. American Optical, 3353 CRB-1-96-5 (1-22-98).

HB5875 clarifies and reaffirms the right of an estate, the surviving spouse and children, to pursue a claim for any workers' compensation benefits to which the injured worker was entitled before his death pursuant to C.G.S. Section 31-308(d). If the injured worker was entitled to these benefits before his or her death, the estate, the surviving spouse and children, should be able to pursue these vested benefits if the injured worker dies before receipt. This is the intent of C.G.S. Section 31-308(d).

### **WORKERS' COMPENSATION BENEFITS EXTEND TO ALL SPOUSES**

In 2008, our Supreme Court in Kerrigan v. Commissioner of Public Health, 289 Conn. 135 (2008) recognized same sex marriage as a protected right under the Connecticut Constitution. Mueller v. Tepler, 312 Conn 361 (2014) established that same-sex couples in relationships established before state recognition of their relationship have the same rights as all married couples. Our workers' compensation act must be applied equally to all married people.