



**Labor & Public Employees Committee
March 11, 2021 Public Hearing**

Testimony in opposition to

SB 1002 - An Act Concerning Labor Issues Related to COVID-19, Personal Protective Equipment and other Staffing Matters

HB 6595 - An Act Concerning Labor Matters Related to COVID-19, Personal Protective Equipment and Other Staffing Matters

HB 6478 - An Act Concerning Workers' Compensation

To: Members of the Labor and Public Employees Committee

My name is Diane Ritucci and I am president & CEO of the Workers' Compensation Trust, (the Trust). The Trust is an employer mutual association which for the past 40 years, provides workers' compensation insurance to over 400 healthcare and human service organizations throughout the State. This represents over 80,000 workers in nursing homes, hospitals, ambulance companies, VNA's, group homes, home health care agencies and other forms of healthcare as well as first responders for municipalities.

I am testifying today in opposition to many of the issues that are contained in SB 1002, HB 6595 and HB 6478. While I certainly understand the sensitivity and the tremendous impact COVID-19 has had on the workforce the past twelve months, I know all too well how employers and insurers have responded to the needs of their employees affected by COVID-19.

In the vast majority of situations, time and time again, employers sought help, assistance and guidance to ensure that their workforce was protected, educated, and cared for when sick. They responded with urgency, seeking the right answers, providing as much information as was known, all while dealing with the needs of their patients, clients, consumers as well as their own families.

Were the answers always right? Was the information always accurate or current? Was there adequate personal protective equipment available in the beginning? The answer is “No, probably not”. So much was happening so fast, with ever changing information that employers couldn’t have possibly gotten it right in the early months of 2020, no matter how hard they tried, but certainly as more time passed and more solid information became available, we all fell into the unfortunate rhythm of managing employees with COVID-19.

The bills that we are discussing today, seem to have been written without any regard to how far we have actually come. And while there may be employees who do not believe the workers’ compensation system has served them well during this pandemic, there are far more employees who do believe the system worked exceedingly well and their claims were managed with timeliness, professionalism, care and concern.

Employers everywhere have all felt the pain of COVID-19, whether their business was closed, whether they had higher medical costs for their sick staff, had to pay overtime expenses to meet the demands of their business, had to pay additional wages to encourage staff to come to work, etc. There have been many ways that COVID-19 has impacted all of us particularly the healthcare and human service industry.

We have weathered this huge storm and are far more prepared in the future to ensure the missteps that were taken early on do not happen again. **Overhauling the workers’ compensation statutes and other employment issues, in response to a world-wide pandemic is not the answer.**

It has now been almost a year since our first COVID-19 claim in this State, and insurers have proven that we have evaluated these claims and come up with the right answers. According to the latest information published by the Workers’ Compensation Commission (WCC), 2,671 COVID related claims have been reported. **Only 9% of those are being litigated**, far less than the 24% of non-COVID-19 claims that are in litigation.

Litigation sounds like a scary word, but in the workers’ compensation world, it simply means there is a dispute of some sort that requires a hearing. It doesn’t necessarily mean that the claim is being contested, it could just be one aspect of the claim – such as disagreement over the comp rate or future medical treatment, etc.

Certainly, these statistics point to a system that is working even for those with COVID-19 claims. I urge you not to disrupt this system and give further consideration to the following:

Presumption that all COVID-19 claims are caused by the Workplace – HB 6478
section 4, HB 6595 & SB 1002 section 3.

These bills provide for a presumption for all workers who acquire COVID-19 that it be considered an occupational illness, allowing an employer just 10 days to prove otherwise. What we have clearly learned throughout this pandemic is that COVID-19 is a community spread disease. I would venture to say that every single one of us knows of someone who is not even in the traditional workplace who has had COVID. Nursing homes, many of whom, had no COVID positive residents, shut their doors to visitors in early March, only to find COVID positive residents several weeks later in their facilities. Direct healthcare workers to COVID positive patients wearing appropriate PPE, did not have a higher incidence of getting COVID. Other ancillary hospital workers, call centers, cafeteria workers, human resource staff got COVID without ever setting foot in clinical areas. This is evidence that supports the fact that community spread is the major source of the acquiring COVID, not occupational exposure.

While, it is easy to take a broad brush approach by passing a presumptive bill, I do believe that Connecticut is better than that. We have a robust insurance industry, trained to evaluate each case on a claim by claim basis and apply the established standards to determine if a work relationship exists. When that work relationship exists, the claim is paid.

If there is a dispute, The WCC has a very simple to access, organized process that works well to ensure that all injured workers have a voice and an advocate. Cases are moved through the system expeditiously and resolved in a reasonable time frame. It is a system that works, at no cost to the employee. **We should continue to let the system work and not add more impediments or burdens that will only serve to delay decisions and claim progression.**

The insurance industry has proven that they have been there to provide support, benefits and reassurance to workers affected by COVID-19 without a presumption bill. I urge you to let this continue.

Occupational Disease - HB 65-478 Section 4c, HB 6595 & SB 1002 Sections 3c.

For the reasons previously mentioned, determining that a world-wide pandemic, COVID-19, a respiratory virus easily spread from human to human is an occupational disease,

flies in the face of science and reality will only serve to cause more disruption. Occupational diseases are defined under the Act as diseases peculiar to an occupation and caused by hazards greater than the typical risks of working in general. COVID-19 can be spread in all areas of society, whether you are in an occupational setting or not and for this reason, should not be recognized as an occupational disease under our workers' compensation statutes.

PTSD benefits - HB 6595 & SB 1002 section 8

Determining eligibility for PTSD based on job positions and exposure to dying, deceased or injured people and then for those dying of a particular diagnosis of COVID-19 is a very slippery slope. Certainly these positions have far more exposure to the dying, deceased or injured just by the mere nature of the job. Staff members in those positions must be able to handle those aspects of life and death in order to function in those jobs.

COVID-19 deaths were made more difficult by the sheer numbers, the isolation of the patients, and the caregiver connecting with and serving in the role of family for weeks at a time. These were stressful times that were unprecedented. To respond, many employers have provided services to staff to help them cope with the stress, anxiety and the physical exhaustion that staff experienced during the peak periods. Sick leave and short term disability leaves are all avenues that are available should someone experience a mental health disability. These avenues are more appropriate than adding presumptive PTSD language to the WC system, which will be there long after this pandemic is over.

Post Specific Benefits – 308A HB 6478 section 1

This language provides for an increase of five (5) times the current discretionary permanent partial disability benefits. Discretionary permanent partial disability benefits are meant to assist in transitioning an injured worker back to the workplace. These benefits are paid after an employee has already received their loss wages benefit while they were recuperating from an injury and after a permanency award has been paid. As an example, the current system allows for 37.4 discretionary weeks of wages, for a 10% permanency award for the back. The new **language increases that to 187 weeks** or 3 ½ years. It shouldn't take 3 ½ years for someone to transition back to work even in a high unemployment climate. This is an extraordinary increase that will serve no useful purpose other than adding cost to employers and keep more people from seeking gainful employment.

Requested Medical Treatment Disputes - HB6478 Section 3, HB 6595 & SB 1002, Section 2, - adds a new form “notice of controversy” to be sent to the originator of the request, so the healthcare provider can request a hearing. The WCC has established a strong utilization review program that has been in place for over 25 years that requires decisions on medical treatment be made within 48 hours, determinations are to be communicated to all parties, allows for peer review and has a built in appeals process. Adding more paperwork when there is already a plan in place to address, will not add any value to the process and will only add to further delays, complicate the system and unnecessarily burden the WC commission.

Burial Expenses – HB 6478 - Section 5, HB 6595 & SB 1002 Section 4.

Provides for an increase in the burial expense indexed to the CPI annually. The current burial expense of \$4000 may be too low, but increasing it to \$20,000 is far higher than it should be. **Average funeral costs in CT is \$9,914** without accounting for the very popular option of cremation which is much lower in cost. The proposed language provides this increased benefit retroactively for all who have died since October 1, 1988. This would be a totally unfunded mandate and have a significant impact on cost.

Additional Reporting - HB 6478 4c, HB 6595 & SB 1002 sections 3F

Additional reporting is not necessary and just adds administrative burden and expense. The reports that have been already provided have shown that insurers are managing COVID-19 claims appropriately.

Paid sick leave - HB6595 & SB1002

Most employers provided 14 days paid sick leave under the Families First Corona Response Act (FFCRA) benefits for COVID-19 related quarantine or disability for self and/or family members. We are also a year away from a paid sick leave bill that the State has already spent a lot of time and resources to get started. Employees are already confused as to why they need to be paying for a paid sick leave program when many of them already have short and long term disability plans. Adding a COVID sick leave is redundant and unnecessary and will only add further confusion, cost and burden to accomplish a redundant benefit.

Conclusion

I urge this committee to reconsider these issues, based on where we are today and not where we were last March, for so much has already changed. Further, I urge this committee to consider the cost impact of these changes. **The NCCI has estimated an increase in cost, just for the COVID presumption to be between \$54M - \$378M annually.** This is an extraordinary expensive proposal that will burden already financially hurting employers for many years to come.

Thanks for your time.

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