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February 17, 2021

The Honorable Julie Kushner, Co-chairperson
The Honorable Robyn Porter, Co-chairperson
Labor and Public Employees Committee
State of Connecticut General Assembly
State Capitol
Hartford, CT 06106-1562

RE: Labor and Public Employees Committee Public Hearing
February 18, 2021

Dear Senator Kushner and Representative Porter:

Thank you for the opportunity to testify at this important Public Hearing on the Workers' Compensation bills that have been proposed by the Labor and Public Employees Committee. The positions presented are in my capacity as the Chairman of the Connecticut Trial Lawyers Association (CTLA) Workers' Compensation Section as well as a practicing attorney who for 33 years has devoted almost the entirety of his law practice to handling workers compensation claims.

Proposed Bill 141

AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR CURRENT AND FORMER MEMBERS OF PAID MUNICIPAL OR VOLUNTEER FIRE DEPARTMENTS.

CTLA Supports Proposed Bill 141 as presented:

One of the unintended travesties of our industrial world is cancer in the workplace. Unlike many of us who know what to expect when we go to work, firefighters do not enjoy the luxury of knowing what chemicals they may be exposed to in any given situation, and then years later trying to figure them out once they develop a cancer.

"Studies have shown that typical structure fire may generate literally tens of thousands of toxic chemicals and gases... from the combustion of the multitude of products... which include plastics foams, textiles, carpet wood products, treated lumber, plywood flooring, synthetic fabrics, walls, electronics, furniture...."

"The toxic cocktail contained in fire smoke is comprised primarily of carbon monoxide,...may include many known and suspected carcinogens: dioxins, furans, polychlorinated biphenyl (PCB's) acetylene, methyl mercaptan, ammonia, nitric oxide, carbon disulfide, creosote, nitrogen dioxide, dimethyl sulfide, phosphine, ethylene, benzene, methylene chloride, lead, chromium,...trichloroethylene, toluene, trichlorophenol, fluorine, acrolein, mercury, formaldehyde, benzaldehyde, sulfuric acid, hydrochloric acid, arsenic, chromate, phenol, styrene, polycyclic aromatic hydrocarbons (PAH's), etc...." *Addressing Toxic Smoke Particulates in Fire Restoration* <https://theredguidetorecovery.com/addressing-toxic-smoke-particulates-in-fire-restoration-2/>

Proposed Bill 14 appropriately offers a balance both for past and current paid or volunteer firefighters that presumes their cancer is work-related, which of course can be rebutted by the preponderance of contrary evidence. Equally important is the bill offers protection for employers that prevent the rebuttable presumption from being invoked depending on years of service, preexisting cancers, and frequency of attending fires.

Proposed Bill 660

AN ACT EXPANDING WORKERS' COMPENSATION BENEFITS FOR MENTAL OR EMOTIONAL IMPAIRMENTS SUFFERED BY ALL WORKERS.

Proposed Bill 665

AN ACT ALLOWING EMERGENCY MEDICAL SERVICE PROVIDERS TO OBTAIN WORKERS' COMPENSATION BENEFITS FOR CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS.

Proposed Bill 666

AN ACT CONCERNING WORKERS' COMPENSATION BENEFITS FOR CERTAIN MENTAL OR EMOTIONAL IMPAIRMENTS AND MENTAL HEALTH CARE FOR CORRECTIONAL STAFF, EMERGENCY MEDICAL STAFF AND DISPATCHERS.

CTLA Supports Proposed Bills 660, 665 and 666 with some Modifications.

CTLA supports the reinstatement of mental and emotional claims as compensable workers' compensation injuries. Public Act 19-17 was a seminal step in the right direction. Connecticut was joining a handful of states that have acknowledged firefighters and law enforcement officers suffer greater increase of stand-alone mental and emotional injuries. **Bills 665 and 666** appropriately expands this group to include the Department of Corrections' work force, emergency dispatchers and emergency medical service personnel.

However, CTLA prefers the broader approach **Proposed Bill 660** takes. Introduced by Senator Looney, Bill 660 finally offers for all workers a redress from the draconian 1993 reforms which carved out of the Worker's Compensation Act stand-alone mental and emotional claims.

One rarely thinks of this inequity but it is a sad reality that Connecticut has its share of unintended victims. We have the bystanders of workplace shootings at the Lottery office, the Hartford Dispensary, and Sandy Hook School several year ago. Also, we know statistically higher incidents of emotional and mental stress are found with correction officers, EMT workers, and dispatchers who never know if they will have to deal with death and mayhem. And in all these cases, under current law, our Workers Compensation Act reflects that these injuries do not warrant any coverage.

Without the assistance of workers compensation, this unprovided group of injured workers (and their families) has to fall back on their own insurance with high deductibles, missed time from work, which unfortunately leads to an erosion of the employer and employee relationship. For this group, their need for constant professional treatment is so dire that without it, they just drift a way into obscurity: despondent, sullen, a perceived burden to their family, so much so that in rare cases, we now get to add suicide to the list of possible outcomes.

Employers and insurers will be claims of costs associated with addressing emotional and mental claims, and while this is true the alternative is financially worse. As we learned from the uncompleted 2020

Task Force on Undue Delay, when work related claims are not provided for within the Worker's Compensation system, the costs get shifted to other areas thereby imposing huge financial burdens on the already limited entitlements and benefits provided by the state of Connecticut.

CTLA believes enough safeguards exists within the system so abuse of the expansion of stand-alone mental and emotional claims will not create a runaway freight train as industry may claim.

Proposed Bill 5952

AN ACT ELIMINATING UNDUE DELAY IN THE PAYMENT OF WORKERS' COMPENSATION AWARDS.

CTLA Supports Proposed Bill 5952 with reinstatement of the Task Force on Undue Delay.

There are essentially two types of undue delays that commonly occur in the handling and administration of workers compensation claims.

The first type of undue delay immediately and directly impacts the claimants' entitlement to benefits or treatments. The other types of undue delay affect the administration of a claim which have perhaps less of an immediate impact but can be as bad as the first type.

Bill 5259 offers additional penalties for recalcitrant employers or insurers that choose to disregard the Commissioner's orders, and CTLA champions this approach. The 2020 Undue Delay Task Force started to focus on the administration of handling claims when it was stopped due to the legislative's shutdown in 2020. A number of recommendations provided to the Task Force would improve the administration of handling Worker's Compensation claims. Scheduling orders issued by the commission, offering commissioners more power to decide medical issues, setting up an orderly process for the denial of previously approved medical care, were some of the practical considerations that CTLA proposed. In fact, Representative Susan Johnson started to uncover an inordinate amount of cost shifting out of the Worker's Compensation forum to other State agencies thereby creating a burden on those social services.

Bill 5259 offers some additional strength once a decision is made by a commissioner, but the reinstatement of the Task Force will go towards improving and streamlining the administration of Worker's Compensation claims that will benefit everyone.

Please feel free to contact me if you have any additional questions or requests.

Sincerely,

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