David Sichel
Deputy Director of Risk Management Services

Peggy Tucker
Claims Manager, Workers' Compensation

Vermont League of Cities and Towns

We are also speaking on behalf of the Vermont School Boards Insurance Trust (VSBIT) that has operated a multi-line program, including workers' compensation coverage since 2004. Representatives from VSBIT are unable to attend today's hearing.

Testimony on April 7, 2016 on Workers' Compensation Issues in S.23
Vermont House Commerce and Economic Development Committee

I. Overview of VLCT PACIF and Workers Compensation

- VLCT PACIF provides workers' compensation coverage to 300 Vermont municipalities.
- VLCT PACIF has offered workers' compensation coverage since 1990.
- We put great emphasis on loss prevention and control, including many innovative programs.
- All claims are handled in-house.

II. Section 1. 21 V.S.A. 662a Final Settlement of Claims: Required disclosure

- This section requires that written disclosure be given to claimants that explains the consequences, benefits, amount settled, injury, medical benefits that will terminate and rights to compensation being relinquished.
- This new language is not needed because the current Department of Labor Form 16, Compromise Agreement already addresses most, if not all, of the items proposed in S.23.
- This includes items such as injury, amount to be settled and it includes check boxes for the following benefits: Any and all, Temporary Total Disability, Permanent Partial Disability, Permanent Total Disability, Vocational Rehabilitation, Medical, and Other.
- The form states: "*It is agreed that the employer/insurance carrier will continue to furnish all workers' compensation benefits causally related to the alleged injury referenced above other than those specifically resolved by this Compromise Agreement*".
- Additional documentation detailing the agreement is always included to support the proposed Compromise Agreement. These agreements are required to be approved by the Commissioner.
- Most Compromise Agreements are accompanied by a general release.
- In all most all instances of Form 16 settlement the claimant is represented by legal counsel who can advise them on the components of the agreement.
- The Compromise Agreement is signed by the employer/insurance carrier and the claimant.
- If there are concerns about the level of exposure they should be addressed by modifying the language that exists on the Department of Labor's Form 16.

III. Section 2. 21 V.S.A. 640 Medical Benefits; Assistive Devices: Home and Automobile Modifications

- Our concern is that all claims, including non-severe medical only claims, would now require potential payment of indemnity (lost wages).

- This would require a considerable amount of administrative work by both the current employer and the insurance carrier of the previous employer from the time of when the injury occurred. This includes obtaining wage statements from the current employer and verifying that the services provided relate to the original claim. This could be a complicated process. For example how are hours missed calculated for a salaried employee? This work would likely not be completed until long after the pay period during which time was taken for the medical appointment.
- There is a significant risk for the claimant to be paid twice for the same hours.
- We understand the desire to shield the subsequent employer from liability for lost time from an injury that occurred somewhere else. While this appears fair, in practice it would be cumbersome. In many instances any benefits would be greatly outweighed by the extra administrative work from all parties.
- This is different from a situation where significant time may be lost due to surgery or other treatments. These situations can be planned ahead and handled more efficiently.
- The proposed language is not consistent with the workers' compensation lost wages calculation used for other claims.
- "What's good for the goose…" An employer that is reimbursed for an employee's lost time from an injury at a previous employer might find that they are reimbursing a different subsequent employer for a work injury that occurred when they were the employer.
- In our view this requires further study and consideration. This includes identifying the nature and extent of the problem and if a problem truly exists what alternatives might best address the issue.

IV. Section 6. Department of Labor Study on Workers' Compensation and Opiates

- We support studying this issue.
- (1) We are not sure that considering whether to establish a pharmacy benefit manager program has value because most workers' compensation carriers already utilize a PBM. The problem is that the workers' compensation PBM cannot use the tools available to health insurers to manage Opioid issues.
- Use of the term "opiate abuse" is problematic. Is an injured employee who has been taking opiates for ten years, as prescribed by a treating physician <u>abusing</u> opiates? In this instance there is a problem because the injured employee is likely Opioid dependent, suffering from other complications related to the opiate use and is also not likely to be back at work.
- (4) Identifying the number of injured workers that <u>abuse</u> Opioids would be difficult. There needs to be a better definition such as using the recently issued U. S. Centers for Disease Control and Prevention (CDC) "Guideline for Prescribing Opioids for Chronic Pain". Their recommendations "focus on the use of Opioids in treating chronic pain (pain lasting longer than 3 months or past the time of normal tissue healing) outside of active cancer treatment, palliative care, and end-of-life care." An easier to measure question would be to identify the number of injured workers who have been using opiates for more than ninety (90) days.