



Testimony of David Sichel
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Testimony on H.197
Worker's Compensation PTSD Presumption for Public Safety Workers
Vermont House Committee on Commerce and Economic Development
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I. Overview of VLCT PACIF and Workers Compensation

- Introductions.
- VLCT PACIF provides workers' compensation coverage to over 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. VLCT supports all personnel involved in public safety and the challenges that they face. Here are some examples:

- VLCT PACIF sponsored EAP First program.
- 21st Century Policing program and support.
- Larger Cities and Towns pay for ongoing and post incident counseling for Police officers as part of ongoing mental wellness programs
 - : Helps prevent and treat PTSD
 - Proactive and collaborative vs. after the fact and eligibility based (which can be seen as non-collaborative)

III. We have concerns about using a workers' compensation presumption to address the issue of PTSD.

- Definition of the term.
- Time required for investigation.
- Can create issues with health insurance coverage.
- High potential cost to municipalities which will be reflected in property taxes.
- Also potential high costs to the State.
- Does not hold prior employers, out of state employers, and military service accountable or proportionally accountable for their responsibilities.
- Challenges in making diagnosis and determining relationship to employment.
- Will worker's compensation liabilities of full time public safety employees (police officers, rescue or ambulance workers, or firefighters) cause their employers to adopt a policy of prohibiting them from volunteering in another public safety service, in their hometown, so as to limit liabilities, as has been done with fire fighters presumption on heart and lung issues?

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VLCT Employment
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VLCT Municipal
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VLCT Property and
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IV. Why offer presumption only to public safety personnel? What about doctors, nurses, crisis hotline workers, mental health providers, nursing home employees, etc, etc.

V. Language as proposed seems overly broad and needs refinement. For example, how might financial responsibility for incidents in prior employment or military service be addressed? What would be the date of loss?

- Qualifications of provider making a PTSD diagnosis must be spelled out. Credentials for diagnosis seem overly broad. The psychiatrist or psychologist must be specifically trained and certified in the diagnosis and treatment of PTSD.
- The diagnosis needs to adhere to all criteria needed according to the American Psychiatric Association's Diagnostic and Statistical Manual (DSM). Diagnosis notes provided to Workers' Compensation provider must include detailed history and discussion of PTSD triggers for the patient. Just stating the diagnosis is not enough.
- Employers should have full rights to conduct pre-employment testing to determine past events that contribute to or cause PTSD.
- Any and all medical records must be available for review as a condition of the claim being accepted.
- Any indemnity payments must be offset if there is available retirement, or other benefits.
- Need to address date of loss issues. If a claim can be filed up to three years after the last active date of employment, what is the date of loss? This creates underwriting and adequacy of rates issues.
 - The claim should be based on the date of diagnosis or the last day of service if the claimant is no longer employed in a public safety position.
- Effective date of presumption law should be set to next workers' compensation renewal date and next fiscal year's budget to allow for appropriate rates and underwriting and municipal budgeting. The presumption is not contemplated in current rates and budgets.
- In order for a public safety officer/firefighter/rescue worker to receive the benefit of the presumption they must have availed themselves of all programs to manage workplace stress provided by the employer. Employers should have firm rights to require mandatory ongoing and post incident individual counseling.
- What happens if an individual is simultaneously employed or volunteers in multiple public safety positions at different employers? Which employer is responsible for the claim?
- Is coverage retroactive for individuals who already have a PTSD diagnosis?
- Consider the costs to public safety personnel employers.

VI. Some states handle presumption type claims outside of the workers' compensation system. These programs separate the presumptions from workers' compensation and provide more broadly based funding for them.

1. Colorado established a program in lieu of a heart presumption and it appears to be working well.
 - Created a separate trust to handle these claims. Benefits specifically defined in dollar amounts.
 - Partnership between employer and employee.
 - Workers' compensation still available, but without presumptive language.
 - Funding options?
2. Michigan and Connecticut have a presumed coverage fund for firefighters with cancer which is funded from sources other than workers' compensation.

VII. Alternative Comprehensive Approach for Vermont

This is an outline of a broader program to address public safety worker PTSD in Vermont. This type of program would be best handled outside of the traditional workers' compensation model. Workers' compensation is geared towards addressing an injury after it has occurred. While carrier loss prevention activities can help it is not the same as the type of comprehensive approach described below.

This program could be more fully designed and managed as a joint effort between state and local officials that employ public safety personnel and public safety representatives. A significant challenge would be to identify a broad based funding source to pay for a comprehensive program.

A Possible Funding Source

One possibility is to use the Workers' Compensation Assigned Risk funding mechanism to cover the costs. This would spread the costs over a larger group with only a small cost impact on the overall workers' compensation system.

- The NCCI analysis of the cost of the PTSD presumption estimates that "H.197 may result in a significant increase in WC system costs in Vermont for first responders. Much of the cost impact to first responders would be felt by governmental entities who are typical employers of such professions. However, while the ultimate impact on the classifications expected to be impacted by this provision could be significant, the estimated impact on overall WC system costs would be expected to be small."

Full public safety career long program to address work stress and PTSD

- Pre-hire psychological screening and history. Being aware of issues and potential PTSD triggers will result in better hires and planning for addressing mental fitness for public safety personnel.
- Public safety training to include addressing stress management and availability of services.
- Post critical incident counseling both group and individual.
- Annual touch base with counselor for every public safety employee, more if needed.
- Periodic psychological testing and follow up as necessary.
- Proactive help and treatment to address psychological issues before they become PTSD.
- Case management/ patient advocate.
- Treatment options available.

Payment for lost time and medical costs needs to be provided and funded. This needs to be coordinated with other funding and service sources. These can include health insurance, VA benefits, disability insurance, workers' compensation, Social Security disability and retirement benefits.