



## Vermont House Bill H.197 (2016-2017 Session)

# Workers' Compensation Comments and Concerns

### Foreword

Bennington Rescue fully supports workers' compensation, including for mental conditions that arise out of and in the course of employment. We believe that a healthy, productive workforce is key to our agency's success and will continue to offer all benefits to staff and volunteers who provide vital lifesaving services. We fully support the spirit and intent of this proposed law; however the unintended consequences are concerning.

### Concerns and Unanswered Questions

Use of 'Personnel' in this document is referring to the definition as listed in the proposed rule "police officers, rescue or ambulance workers, or firefighters"

#### 1. Presumption

The presumption portion of this law is the most concerning aspect. This shifts the burden from the employee to the employer and in some cases, would put the employer in the position of trying to prove a negative. If this same language was used for all injuries, employers would spend the majority of their time trying to disprove something happened off duty. (i.e. If there was a knee presumption statute, and 'all knee injuries are presumed to have happened in the line of duty and are compensable'. Using this language, if an employee hurt his knee while skiing, we the employer would have to do the investigation and provide the documentation that the injury did not occur at work since 'knee injuries are presumed'.)

If the bill passes as written, are liberties going to be allowed to employers for the investigation into assisting to provide that information? (i.e. If someone has a home life that potentially has created PTSD situation, are we as employers going to be given access to all aspects of an employee's life to ensure that the claim is valid?)

#### 2. Assignment of Liability

Currently 62% of Bennington Rescue personnel work and/or volunteer at another EMS Agency, Fire Department, Police Department, or a combination of those types of agencies. Some follow up questions:

- a. What if personnel work at multiple agencies? (i.e. Volunteer Fire Department and Career EMS Dept.)
- b. What if those public safety agencies are out of state? (50% of our personnel that work another Fire/EMS/Police job do so out of state)
- c. What if a person leaves our agency and goes to work or volunteer at another Fire/EMS/Police agency?

#### 3. Veteran's Concern

Bennington Rescue prides itself on recruiting and hiring veterans, they tend to be our best personnel. Our concern is mainly with recently returning veterans that have not totally repatriated. If we hire these individuals, and after a few months of reacclimating to the US, they begin to develop symptoms, the burden of proof is on the EMS agency to prove that these symptoms did not occur in our agency. This would mean that EMS agencies (Including small volunteer agencies) would be working vs. the Federal Government to determine liability, which would be burdensome and futile.

#### 4. Pre-Existing Conditions

How does this proposed bill account for pre-existing conditions? If they are documented, then the outcome is easy. However, if this bill continues as written then post-offer mental health screenings would need to be specifically allowed, in addition to language that would permit the testing of all current personnel.

#### 5. Volunteer Agencies

Many EMS (and Fire) Agencies in this state are small Volunteer or partially Volunteer agencies that provide a vital service to their communities. Many of these agencies barely get by on either the small amount of revenue they generate from billing activities and/or town appropriations. The impact on workers' compensation insurance, which is already astronomical for our industry, will surely increase to handle this new presumption law. Many small and volunteer agencies will not be able to absorb the burden of this increased cost without assistance from their towns or other funding sources, causing many of them to contemplate if they should stay operational or not.



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#### RECOMMENDED LANGUAGE

1. In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a psychiatrist or psychologist **and can be reasonably linked** to have been incurred during service in the line of duty and shall be compensable.
2. A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter and **whose diagnosis can be reasonable linked to employment for a specific organization** shall be eligible for benefits under this subdivision.

#### Information on Speaker



Forest Weyen, MBA, NRP is currently the Executive Director of Bennington Rescue Squad in Bennington, VT. Forest has been in Emergency Medical Services over 20 years, and has worked as an EMT, Paramedic, Supply Officer, Operations Chief. In addition to EMS, Forest has worked as the Director of Operations for the Kentucky Board of Emergency Medical Services and in hospital administration, completing a post graduate Administrative Fellowship with the University of Pittsburgh Medical Center (UPMC). Forest holds a Bachelor's in Emergency Medicine from the University of Pittsburgh and a Master's in Business Administration from West Virginia University.