



ANALYSIS OF VERMONT HOUSE BILL 197 Proposed to be Effective on July 1st, 2017

Vermont House Bill 197 (H. 197), if enacted in its current form, may result in a significant¹ impact on system costs for police officer, firefighter, rescue or ambulance worker classifications² in Vermont. However, the impact on overall workers compensation (WC) costs would be expected to be small³. The ultimate cost impact would be realized through future loss experience and reflected in subsequent NCCI loss cost filings in the state.

Summary of H. 197

The changes proposed by H. 197 would amend 21 V.S.A. § 601 by:

- Establishing a rebuttable presumption for police officers, firefighters, rescue or ambulance workers (collectively “first responders”) diagnosed with post-traumatic stress disorder (PTSD) by presuming that PTSD was incurred during service in the line of duty and as such be deemed compensable under the state’s WC act
- Including mental conditions under the definition of “occupational disease”

The PTSD presumption would only apply to individuals who are diagnosed within three years of the last active date of employment as first responders.

Actuarial Analysis of H. 197

Currently in Vermont, any worker who suffers from mental injuries may seek indemnity and medical benefits under the state’s WC act. However, as a result of *Crosby v. City of Burlington (2003)*, the Vermont Supreme Court set an applicable standard for work-related stress injuries by generally requiring for a claimant to experience stress of a greater degree than other similarly situated employees. The proposed changes outlined by H. 197 would broaden compensability standards for mental impairment claims, notably for first responder classifications, which in turn may result in additional compensable claims.

Under the provisions of H. 197, indemnity and medical benefit costs may increase since first responders with PTSD-related injuries would be presumed compensable, entitling them to benefits to which they may not be currently entitled. Although events leading to PTSD cannot be predicted with certainty, the incidence of PTSD is estimated to be significantly higher for first responders compared to the general population. According to

¹ Significant in this context is defined as an impact greater than or equal to 5.0% on those classifications expected to be impacted.

² These classifications represent approximately 2.0% of statewide losses in Vermont, based on NCCI’s Workers Compensation Statistical Plan data, Policy Years 2011 to 2015. This figure of 2.0% may be an underestimate for the total population of Vermont workers, as many organizations which employ law enforcement officers, firefighters, and emergency medical technicians are self-insured and do not all report data to NCCI.

³ Small in this context is defined as an impact on overall system costs of less than 1.0%.



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the U.S. Department of Veterans Affairs, about 55% of the population will experience at least one trauma in their lives and, as a result, about 7-8% of the population will have PTSD at some point in their lives⁴. In comparison, the National Center for Biotechnical Information (NCBI) concluded that the prevalence of PTSD among Emergency Medical Technicians (EMTs) is greater than 20%⁵, and various sources have reported the prevalence of PTSD among firefighters to be in the 7-37% range⁶.

NCCI is unable to quantify the expected increase in the number of PTSD-related claims that would be entitled to indemnity and medical benefits as a result of H. 197. However, due to the high prevalence of PTSD in firefighters, police officers, EMTs, and other first responders, NCCI estimates that the increase in compensable PTSD-related claims could be significant for these occupational classifications.

NCCI estimates that, if enacted, 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 typically the 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.

Other Considerations

- H. 197 would explicitly include mental conditions under the definition of occupational disease. It is unclear to what degree this would affect compensability of mental injury claims as the change to the definition of occupational disease would appear to apply to all occupations, not just first responders. However, any coverage of mental conditions under WC would likely be limited by the *Crosby* decision, except for first responder classifications.
- Preliminary research has been published that links PTSD as a cause of other serious physical health conditions⁷. The proposed language suggests that other medical conditions resulting from PTSD would be covered. However aggravated psychosomatic conditions may be difficult to directly link to PTSD; as such, the degree to which WC coverage would compensate for these related injuries or conditions is unclear.

⁴ U.S. Department of Veterans Affairs. (No date). How Common is PTSD? Retrieved from <http://www.ptsd.va.gov/public/PTSD-overview/basics/how-common-is-ptsd.asp>.

⁵ Donnelly, E., and Siebert, D. (2009, Sep-Oct). Occupational risk factors in the emergency medical services. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/20066645>.

⁶ Tull, Matthew. (2013, January 29). Rates of PTSD in Firefighters. Retrieved from <http://ptsd.about.com/od/prevalence/a/Firefighters.htm>.

⁷ Carsten Spitzer, MD, Sven Barnow, PhD, Henry Völzke, MD, Ulrich John, PhD, Harald J. Freyberger, MD and Hans Joergen Grabe, MD. Trauma, Posttraumatic Stress Disorder, and Physical Illness: Findings from the General Population. *Psychosomatic Medicine: Journal of Biobehavioral Medicine* November/December 2009. <http://www.psychosomaticmedicine.org/content/71/9/1012.full#ref-list-1>



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- If enacted, the proposed language could potentially result in increased litigation related to the determination of whether PTSD resulted from “nonservice-connected risk factors or nonservice-connected exposure”. Any increased litigation could exert upward pressure on overall WC system costs.
- If the proposed changes were enacted and were applied to claims that occurred prior to enactment, this proposal could also have a retroactive impact. Premiums calculated and collected for policies effective prior to the date of the proposal would likely not have contemplated this broadening of the compensability standard. As there is no mechanism to assess employers for such additional claim costs the change, if enacted, could result in an unfunded liability for the WC system.