



To: Vermont House Committee on Commerce and Economic Development

Re: Testimony in Opposition to S.342

Date: June 19, 2020

Representative Marcotte, Representative O'Sullivan and members of the House Committee on Commerce and Economic Development:

On behalf of Acadia Insurance, I am writing to urge the Committee not to pass S.342, or the proposed amendments contained in draft 1.1 to S.342. Acadia Insurance is a commercial property and casualty insurer that offers insurance programs for small and midsize businesses throughout New England and New York State. We believe being local doesn't just mean being down the street. It means having a real understanding of the communities we serve. We maintain a regional office in Colchester, and provide workers' compensation insurance to more than nine hundred employers located in every county in Vermont. Our mission is to help promote the safety and well-being of our policyholders and their employees.

First and foremost, we are grateful for all of the healthcare workers, first responders and others on the front lines of this crisis and thank our government officials for their leadership. This crisis has challenged all aspects of daily life, and we appreciate the magnitude of the health crisis and associated financial issues. We do not, however, believe that the proposed changes to Vermont's workers' compensation laws in S.342 serve the interests of the state's employers or workers.

Workers' compensation insurance covers injuries arising out of and in the course of employment. More specifically, Vermont is a positional risk doctrine state, which generally holds that if an injury occurred at work, it is a work-related injury. This framework holds for determining causation for diseases too. Therefore, under current law, Vermont's workers' compensation system already provides a remedy for employees that contract COVID-19 through a documented occupational exposure.

This bill, however, would dramatically change the standard of evidence, doing away with objective measures, medical or otherwise. It would create new payment obligations that were never contemplated as being covered under Vermont's workers' compensation law and for which premium amounts were never collected – costs that will ultimately be borne by Vermont employers.

We are also concerned about the expansive nature of the presumption, particularly as virtually all sectors of Vermont's economy have reopened in some capacity, and Vermonters are no longer under a strict stay-at-home order. It sets an unreasonable expectation that potential exposure to coronavirus in

any occupation would be the primary contributing factor to one contracting COVID-19, and therefore, potentially eligible for workers' compensation. Why would a childcare worker, for example, have more of an elevated risk than a restaurant worker, a retail shop employee, a dental hygienist or any other position that interacts with the public? Given the current environment, we believe that carving out specific occupations, certainly beyond healthcare workers and first responders, does not make sense at this time. Additionally, the undefined discretion in Section 2(a)(2)(J) for the Commissioner to designate other areas of presumption creates more uncertainty and likely increased litigation on compensability issues.

Lastly, while we appreciate the intent of the proposed language to exempt employers from the presumption if they are in compliance with various COVID-19 safety standards, without greater definition or structure to certify compliance, we believe this provision will also create more uncertainty and litigation.

For the foregoing reasons, we urge the Committee to vote in opposition to S.342, or the proposed amendments contained in draft 1.1 to S.342. Thank you for the opportunity to provide comments and share our concerns on this issue.

Respectfully submitted,

*David LeBlanc*

David LeBlanc, President