

STATE OF VERMONT

AGENCY OF ADMINISTRATION
FINANCIAL SERVICES DIVISION
OFFICE OF RISK MANAGEMENT

REPORT

on

WORKERS' COMPENSATION CLAIMS SUBMITTED BY STATE EMPLOYEES IN
RELATION TO POST-TRAUMATIC STRESS DISORDER AND OTHER MENTAL
CONDITIONS

Submitted on: January 15, 2021

Submitted to: The House Committee on Commerce and Economic Development and
The Senate Committee on Economic Development, Housing and General Affairs.

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Director of Risk Management Operations

In consultation with the Agency of Human Services, the Department for Children and Families,
the Department of Human Resources and the Department of Labor

Introduction:

Background on Workers' Compensation

Workers' Compensation ("WC") covers employees who "receive a personal injury by accident arising out of and in the course of employment." *See* 21 VSA § 618 (a) (1) WC has been in existence in Vermont since 1915. WC has evolved over the century as the workplace has changed and workplace hazards have evolved. WC has been expanded to covers certain occupational diseases, see 21 VSA § 601 (24), and some mental health conditions. *See* 21 VSA § 601 (11) (J).

The overarching purpose of WC today is to ensure that employees injured on the job receive wage replacement and medical treatment in a timely manner. Claims are adjudicated within a relatively fast time frame so employees can access medical treatment and wage replacement benefits promptly. An overview of the WC claim process in Vermont is in Appendix C.

Vermont State Government employees who claim injuries on the job are covered by the Vermont's Workers' Compensation Act. *See* 21 V.S.A. §§ 601 to 711. All executive, legislative and judicial branch employees are covered by workers' compensation plus some quasi-state entities. The Agency of Administration's Office of Risk Management manages this self-insured program and oversees the third-party administrator that adjusts the WC claims and workplace safety. *See* 29 VSA § 1401, 1406, 1407 and 1408.

Background on Workplace Stress, PTSD and Workplace Violence

According to The National Institute for Occupational Safety and Health (NIOSH), workplace stress can be defined as "the harmful physical and emotional responses that occur when the requirements of the job do not match the capabilities, resources, or needs of the worker. Job stress can lead to poor health and even injury." From Stress at Work, NIOSH Publication 99-101. Job stressors have several components that are physical, social and environmental. But most job stressors do not lead to compensable workers' compensation claims. The State's Department of Human Resources, Department of Labor's VOSHA, Departmental leadership and management, Departmental and Statewide safety committees, and the unions address workplace stressors and work to improve conditions before stressors become large problems. In addition, the General Duty Clause from the OSHA Act of 1970 requires that, in addition to compliance with hazard-specific standards, all employers provide a work environment "free from recognized hazards that are causing or are likely to cause death or serious physical harm."

NIOSH categorizes job stressors as follows:

1. Design of Tasks. Heavy workload, infrequent rest breaks, long work hours and shiftwork; hectic and routine tasks that have little inherent meaning, do not utilize workers' skills, and provide little sense of control.
2. Management Style. Lack of participation by workers in decision- making, poor communication in the organization, lack of family-friendly policies.
3. Interpersonal Relationships. Poor social environment and lack of support or help from coworkers and supervisors.
4. Work Roles. Conflicting or uncertain job expectations, too much responsibility, too many "hats to wear."
5. Career Concerns. Job insecurity and lack of opportunity for growth, advancement, or promotion; rapid changes for which workers are unprepared.
6. Environmental Conditions. Unpleasant or dangerous physical conditions such as crowding, noise, air pollution, or ergonomic problems.

From Stress at Work, NIOSH Publication 99-101.

Post traumatic stress disorder (PTSD) is an "intense physical and emotional response to thoughts and reminder of a traumatic event that lasts for many weeks or months after the event." From Center for Disease Control (CDC), Coping with a Traumatic Event. More information on PTSD is in Appendix B.

"Workplace violence is the act or threat of violence, ranging from verbal abuse to physical assaults directed toward persons at work or on duty. The impact of workplace violence can range from psychological issues to physical injury, or even death. Violence can occur in any workplace and among any type of worker, but the risk for fatal violence is greater for workers in sales, protective services, and transportation, while the risk for nonfatal violence resulting in days away from work is greatest for healthcare and social assistance workers." (from NIOSH <https://www.cdc.gov/niosh/topics/violence/>).

NIOSH defines workplace violence as "... any physical assault, threatening behavior, or verbal abuse occurring in the work setting" ([NIOSH, 1996](#)). Types of workplace violence have been categorized into criminal intent, customer/client, worker on worker and personal relationships.

Workplace stress and PTSD is on the rise nationwide. According to the U.S. Department of Labor Bureau of Labor Statistics (BLS), 20,790 workers in the private industry experienced trauma from nonfatal workplace violence in 2018. The number increased to 20,870 in 2019.

¹Bureau of Labor Statistics (2018). [TABLE R4. Number of nonfatal occupational injuries and illnesses involving days away from work by industry and selected events or exposures leading to injury or illness, private industry, 2018.excel iconexternal icon](#)

According to BLS, 1,470 workers in the private industry and the public sector experienced PTSD in the workplace in 2018, the number increased to 1,790 in 2019.

Report:

Pursuant to Section 16 of Act 85, the Agency of Administration, Office of Risk Management, in consultation with the Agency of Human Services, the Department for Children and Families, and the Departments of Human Resources and of Labor, submits this report on the workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

The report shall:

(1) examine the occurrence and frequency of workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions that are caused or aggravated by workplace stressors or workplace violence.

Risk Management examined the occurrence and frequency of WC claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions that are caused or aggravated by workplace stressors or workplace violence.

Claim occurrence and claim frequency is defined as the claim incidence rate per unit of exposure. The State's Actuarial Valuation Report as of 06/30/20 calculates the State's overall WC claim frequency per \$1million inflation adjusted payroll. The frequency rate in FY 2020 is 1.815 claims per \$1M in payroll. The frequency rate has been decreasing every year since FY 2012 when the rate was 2.045 claims per \$1M in payroll.

Risk Management reviewed WC claims with a date of loss from 7/1/2010 to 12/31/2020. Seventy-five WC were submitted for stress or PTSD from 7/1/2010 to 12/31/20. This is a fraction of the 11,412 total WC claims submitted in that time frame. Since seventy-five is such a small number compared to the total, the occurrence and frequency of stress and PTSD workers' compensation claims as compared to the total claim count is negligible.

Of the seventy-five WC claims submitted, thirty-one were accepted as compensable. The rest were denied because they did not meet the burden of proof, did not provide required medical authorization, were not found to be work related or were barred by the statute of limitations. It is important to note that even if a WC claim was not accepted, employees experiencing stress or

PTSD have full access to State programs such as EAP and mental health counseling through the State's major medical health insurance benefits.

Of the thirty-one WC claims, all of the causes of injury could be traced to workplace violence or a violent event. Most of these claims can be categorized by NIOSH as customer/client type of workplace violence. Specific causes of injury were as follows: inmate or mental health patient assault (five claims), first responder at a car crash or fire scene (four claims), the impact of the murder of a DCF co-worker (three claims), receiving a death threat (two claims), inmate suicide (one claim), working on a difficult 911 call (one claim) and other (one claim). Fourteen claims were submitted by VSP for one-time mental health check after involvement in a shooting incident. Days away from work for these claims ranged from no time lost to employees did not return to the job.

In fiscal year 2022, Risk Management's actuarial firm, Oliver Wyman, calculated that the Department of Corrections had 25.3% of the total State WC losses, Public Safety had 11.2% of the total losses, the Department of Children and Families had 6.8% of the total losses and the Department of Mental Health had 5.9% of the total losses.

The causes of loss for all 11,412 WC claims reported by employees in all departments from 7/1/2010 to 12/31/20 is as follows:

Assault by inmate, patient or other person and criminal assault - 1,058 claims reported or 9% of total

Slip and fall 2,429 or 21% of total

Strain from lifting, pushing, pulling or twisting 1,381 or 12% of total

Cut, puncture, scrape 744 or 6% of total

Motor vehicle accident 490 or 4% of total

Bitten by animal or insect (including tick) 417 or 3.6% of total

Caught in or between 415 or 3.6% of total

Striking against an object or stepping on something 367 or 3% of total

Repetitive motion 365 or 3% of total

Exposure to heat or cold 297 or 2.6% of total

Absorption, ingestion or inhalation 275 or 2% of total

Struck by machine 206 or 1.8% of total

Struck by falling object (ex. from shelves) 180 or 1.5% of total

COVID-19 related 93 or under 1% of total

Foreign body in eye 17 or under 1% of total

Excessive noise 6 or under 1% of total

Miscellaneous not otherwise classified or indicated 2,610 or 22% of total

Since assaults make up 9% of overall WC claims and are the third most prevalent cause of loss, we will focus on current programs and recommendations for additional resources to address and prevent workplace assaults.

(2) identify professions and occupations in State government that have a heightened risk of exposure to traumatic situations or stress that could cause post-traumatic stress disorder or other mental conditions;

The thirty-one accepted WC claims for stress or PTSD from 7/1/2010 to 12/31/20 were filed by employees who worked in the following departments: Vermont State Police, Department of Corrections, Department of Children and Families, Department of Mental Health, Department of Health, VTRANS, State's Attorneys and Sheriffs, Military, Department of Labor. The most prevalent job titles of those that filed the WC claims were Trooper, Correctional Officer, Family Services Worker and Mental Health Specialist.

An analysis of the 1,058 assault by inmate, patient or other person and criminal assault claims from 7/1/2010 to 12/31/20 were filed by employees who worked in the following departments:

Dept of Mental Health – 522 claims filed

Dept of Corrections 254 claims filed

State Police 134 claims filed

Veterans Home 87 claims filed

Dept of Children and Families (including Woodside) 32 claims filed

All other (Attorney General's Office, Buildings and General Services, Judiciary, Defender General, DAIL, Dept of Education, Dept of Environmental Conservation, Fish and Wildlife, Labor, State's Attorneys and Sheriffs, VTRANS) 29 claims filed

The most prevalent job titles for the assault claims listed above is as follows:

Department of Mental Health (DMH): Associate Mental Health Specialist, Mental Health Specialist, Senior Mental Health Specialist, Registered Nurse/Psychiatric Nurse, Licensed Nursing Assistant, Mental Health Recovery Specialist, Psychiatric Technician

Department of Corrections (DOC): Correctional Officer, Community Correctional Officer

Vermont State Police (VSP): Trooper

Veterans Home: Registered Nurse, Licensed Nursing Assistant

Department of Children and Families (including Woodside): Family Services Worker, Social Worker, Youth Counselor

(3) include an inventory of currently existing prevention and education plans related to the occurrence of post-traumatic stress disorder and other mental conditions among State employees;

The Department of Children and Families (DCF) has strong and effective programs in place to protect employee safety. The introduction to DCF Policy 250 reads as follows:

The work of the Family Services Division comes with inherent risks. The division's work with families may cause stress to clients, and some clients may react to our intervention with feelings of anger or hostility, violence, or threats of violence towards staff. Such reactions create risks to the personal safety of staff. Hostility is most often directed towards the division itself, and the resultant safety concerns are applicable to any employee, community partner, or foster/kinship family acting on its behalf. The safety of Family Services staff, in the office and in the field, is a vital issue that must remain at the forefront at all times. The importance of staff safety should be given primary attention in the performance of work duties. This policy guides staff in how to:

- *Respond to threats, violence, and other safety or security issues;*
- *Assess potential risk and the need for teamed responses; and*
- *Properly document safety related concerns.*

Anticipatory case consultations with the staff safety manager are encouraged and may be requested at any time by all division employees. The division seeks to address staff safety in a preventative and planned way as much as possible.

DCF has a team of trained peers who provide confidential assistance to staff in response to significant events, stressful situations or employees in needs of support. The HOPE (Helping Our Peers Excel) team helps DCF achieve its commitment to ensuring the long-term emotional health and well being of its employees.

DCF's safety culture work is designed to support a culture shift that has a direct, positive impact on the impact of primary and secondary traumatic stress associated with child protection work.

DCF's Safety culture literature reads as follows:

Safety culture is one in which our values, attitudes, and behaviors support a safe, engaged workforce, and reliable service delivery. It is not just about the safety of our children and families (although that is the ultimate goal); it is also about the physical and psychological safety of our staff to ensure they can make the best decisions possible in support of our children and families.

Safety Culture Is...

- *Values, attitudes, and behaviors that support an engaged workforce and safe, reliable care delivery.*
- *How we treat each other— always with respect and professionalism.*
- *When bad things happen... Our priority on understanding why rather than blaming or judging our colleagues.*
- *A part of how we mobilize around problems and challenges: a) planning ahead for things we don't want to go wrong, and b) reflecting back supportively when they do.*
- *Empowering all teams to be CQI savvy, teachers, and learners.*

Leaders in a safety culture:

- *Strive to balance systems and individual accountability; and*
- *Value open communication, transparency, and continuous learning and improvement.*

Teams in a safety culture

- *Monitor themselves, their colleagues, and their system for stress*
- *Anticipate and respond to unexpected events as a unit*

Why Do We Need a Safety Culture in Our Work?

The field of child protection and youth justice involves high risk, high consequence decision making in an environment that is dynamic and complex. Unlike other professional fields where problem fact patterns can be matched with known solutions, our interventions and outcomes are impacted by the individuals and relationships between those individuals.

How Does Safety Culture Fit with Our Other Priorities in VT?

DCF's Strategic Plan currently has a specific value closely aligned with this work:

Relationships are built on trust, collaboration and communication. We strive to resolve conflict in a way that strengthens connections and repairs and restores relationships.

Additionally, a culture of safety encompasses the key elements that are needed to develop and support a trauma-informed resilient organization, at the case practice level as well as with the workforce overall. In fact, the foundational principles of trauma-informed practice: safety; trustworthiness and transparency; peer support; collaboration and mutuality; empowerment,

voice and choice; and cultural, historical, and gender issues are also entirely consistent with our vision of safety culture in VT.

How Can a Safety Culture Help Our Decision Making?

We know that staff make the best decisions they can with the limited information they have, often in stressful, overwhelming situations, sometimes while tired, and often alone. But we also know that strong decision making requires:

- *Systems that recognize and support vulnerabilities at the individual and systems level (for example cognitive biases stress, fatigue, or overwhelm)*
- *Systems that create “hard stops” to ensure that support is offered at points in time where individuals are vulnerable to making a high risk, high consequence decision that is impacted by a variety of factors such as stress, fatigue or overwhelm*

Safety culture means that no one needs to make a decision alone. We do this by paying attention both to safety-organized practices and a safe and resilient workforce.

Safety-organized practice describes a collaborative approach to casework that helps all those involved with the child/youth to stay focused on assessing and supporting child & community safety well after the child protection agency is involved. In VT, this approach includes supported decision-making tools and engagement strategies.

Safe and resilient workforce interventions occur in a way that recognizes needs of the involved staff for support and planning to ensure that they can carry out their duties and make the best decision possible for themselves and those they serve.

How Do We Already Do This in VT?

A safety culture recognizes that the need to be attentive to the needs of the workforce in service to creating the best opportunity for strong decision making. A safety culture monitors and plans for vulnerabilities in the system and works toward continuous improvement and accountability. In VT, we build in opportunities for reflection and learning through

- *Qualitative case reviews*
- *SDM case reads*
- *Individual and group supervision*
- *Teaming*
- *Coaching*
- *Case consultations*
- *District plans*
- *CWTP Collaborative Agreements*

Staff physical safety strategies

Threats to staff have many impacts including a detrimental impact on decision making. People who experience threats to their safety can experience impacts in their ability to process information and formulate plans. In VT we currently address these impacts through

- *Clear staff safety policy that outlines reporting and response*

- *Staff Safety Manager intervention to address immediate safety impact and support resiliency*

Staff resiliency and psychological safety strategies

Staff routinely interact with traumatic content in their work and the system must understand and respond with interventions that mitigate the negative impact of these traumatic experiences on decision making. In VT we currently address these impacts through

- *Peer support that is activated any time there is a threat to staff safety or anytime a need is identified by involved staff*
- *Clinical support for staff that are experiencing the impacts of trauma*
- *Consultation at key junctures in a case where high risk, high consequence decision making occurs to ensure workers are not alone in the work*

How Can We Do More of This in VT?

Recognizing this as a priority, VT has created a Safety Culture Workgroup to take the lead in creating, supporting, and nurturing this culture. This workgroup consists of volunteers from across the state who have agreed to serve as champions. They represent a variety of roles within the agency.

This workgroup will come together regularly, as they brainstorm ideas, test concrete strategies and tools, elaborate on existing successes with a focus on what's already working well, ensure that the culture of safety helps make work better and easier instead of just being "more work," and will serve as champions and supports to staff throughout testing and implementation.

DCF program seems to be working well as evidenced by the small number of WC PTSD and stress claims filed by DCF employees.

Vermont State Police has a very well-run peer support team that has been regarded as a model nationwide.

The Department of Corrections has an expansive peer support team program that is modeled after VSP's program. The peer support team members are certified by a clinical professional to deliver services to DOC employees after stressful or traumatic events. A goal of the program is to build resiliency among employees. The peer support team was scheduled to be implemented in all Correctional facilities, but the plan was delayed by the COVID-19 pandemic. All resources available to DOC employees including the peer support team, EAP, mental health benefits and workers' compensation are reviewed in depth with new DOC employees at the Correctional Academy.

The Department of Mental Health trains every staff member in ProACT – Professional Assault Crisis Training (<https://proacttraining.com/>) which is a de-escalation technique on how to prevent negative interactions with patients. It also includes hands on training about how to restrain/seclude a person if necessary. After each emergency involuntary procedure (a seclusion

or restraint, known as an EIP) there is a meeting offered to all involved staff and nursing leadership to discuss and debrief.

(4) identify various approaches for preventing the occurrence of post-traumatic stress disorder and other mental conditions among State employees, including specific actions and methods to reduce the likelihood of job-related stressors or workplace violence; and

The Center for Promotion of Health in the New England Workplace (CPH-NEW) writes the following about the primary, secondary and tertiary methods of preventing job stress.

Primary prevention methods are proactive actions taken by an organization that aim to prevent illness among individuals by reducing stress exposure. This is the best way to reduce job stress and the illnesses that accompany stress and should be top priority.

Primary prevention strategies can be employed on a number of levels. Legislation and regulation are effective strategies for changing policies that affect whole populations. Examples in work site settings include workplace ergonomic policies, minimum staffing levels for nurses, bans on mandatory overtime, and paid family leave laws. In unionized workplaces, collective bargaining can also be very effective for implementing stress reduction strategies. In non-unionized settings, employee groups and management working together can address workplace stressors through quality improvement teams and other similar participatory interventions.

Examples of Primary Prevention:

- *Organizational Strategies:*
 - *Clearly defining workers' roles and responsibilities*
 - *Workload matches workers' capabilities and resources*
 - *Job redesign*
 - *Opportunities for workers to participate in decisions and actions affecting their jobs*
 - *Work schedules are compatible with demands/ responsibilities outside the job*
 - *Improving ergonomics and work/environmental design*
 - *Improving communications between workers and managers*
 - *Establish career ladders*
 - *Commitment to ongoing team building and diversity initiatives*
 - *Equitable pay structures and compensation*
- *Individual Strategies:*
 - *Lifestyle management*
 - *Participation in workplace quality improvement*

Secondary interventions aim to modify an individual's response to stressors. They often include providing training and education to employees on stress management to assist employees in coping with residual stress in the environment and reducing its harmful effects.

Examples of Secondary Prevention:

- *Organizational Strategies:*
 - *Team building*
 - *Diversity programs*
 - *Worker education and training*
 - *Access to fitness facilities/walking paths*

- *Individual Strategies:*
 - *Good nutrition*
 - *Physical activity*
 - *Meditation*
 - *Social/emotional outlets*
 - *Assertiveness training*

Tertiary interventions are reactive and aim to minimize the effects of stress-related problems once they have already occurred. Tertiary Interventions do not prevent job stress problems from occurring. These tactics help employees recover from serious ill health resulting from stress.

Examples of Tertiary Intervention:

- *Employee Assistance Programs*
- *Psychological counseling/therapy*
- *Traumatic event debriefing*
- *Medical care and treatment*

From CPH-New's Stress@Work website

<https://www.uml.edu/Research/CPH-NEW/Worker/stress-at-work/prevention.aspx>

The research done by CPH-NEW on advancing corrections workplace health and safety is important and a new area of focus for NIOSH. We recommend that DOC and the Corrections Academy review their research and take into consideration their programs which incorporates the NIOSH Total Worker Health Strategy. Links to the documents are in Appendix B.

The creation of the **Office of State Safety and Security in The Department of Buildings and General Services** is a major component of the State's commitment to preventing workplace violence and keeping employees safe.

The Office's mission includes many components of OSHA's five major elements of an effective workplace violence prevention program:

- Management commitment and employee involvement;
- Worksite analysis;
- Hazard prevention and control;
- Safety and health training;
- Recordkeeping and program evaluation

In accordance with 29 V.S.A. (Vermont Statutes Annotated) §§ 171, Responsibility for Security:

(a) The Commissioner of Buildings and General Services shall be responsible for ensuring the security of all State facilities, ...the lands upon which those facilities are located, and the occupants of those facilities and places...

(b) The Commissioner of Buildings and General Services shall develop a security plan for each facility, except for those under the jurisdiction of the Supreme Court and of the Sergeant at Arms, and shall regularly update these plans as necessary and be responsible for coordinating responses to all security needs...

The Department of Buildings and General Services has tasked the State Safety & Security Office to:

1. Provide leadership in coordination with agencies and departments to develop all State Security plans, policies, and protocols, update plans as necessary, and coordinate responses to all security needs.
2. Serve as the single point of contact for all State Agencies and Departments to receive reports of threats to the safety or security of State personnel and facilities, assess threats, determine appropriate protective measures, and coordinate the implementation of protective measures.
3. Develop procedures and provide training for emergency drills at State buildings. Create and communicate a framework to establish and maintain a Building Safety Committee and an Emergency Procedures Plan (EPP) for each State office building. Provide training and guidance in the development of procedures to ensure the completion of training and participation in emergency drills by all State employees assigned to each State office building at least annually.

<https://bgs.vermont.gov/security/incident>

(5) identify specific training and educational activities and materials that can be implemented to:

(A) enable State employees to better recognize situations, incidents, and other occurrences that may result in a stressful situation or violent interaction;

The State of Vermont's **Department of Human Resources LINC Learning Management System** contains more than 140 classes available to state employees on the topic of workplace stress and more than 50 classes on workplace violence.

<https://vermont.csod.com/client/vermont/default.aspx>

BGS's Office of State Safety and Security recently hired a second Emergency Preparedness Specialist, who will address threats, Emergency Preparedness Plans, and training for employees such as CPR/AED, First Aid, Stop the Bleed, and Active Shooter/Active Threat. BGS plans to also include de-escalation of hostile situations soon.

Risk Management is creating updated training sessions on the topic in conjunction with the loss control partners at the third party administrator. Small group sessions can be held remotely and other sessions will be available on DHR LINC LMS.

NIOSH has a very good online course regarding Workplace Violence Prevention for Nurses and social workers: https://www.cdc.gov/niosh/topics/violence/training_nurses.html

(B) enable State employees to better recognize the symptoms of post-traumatic stress disorder and other common mental conditions in themselves and their coworkers;

The State of Vermont's Department of Human Resources LINC Learning Management System contains more than 25 classes available on the topic of workplace mental health.

<https://vermont.csod.com/client/vermont/default.aspx>

Deployment of DCF's Helping our Peers Excel (HOPE) team, DOC and VSP's Peer Support Teams.

(C) identify the resources available to employees following a stressful or traumatic incident, including the Employee Assistance Program and counseling; and

In April 2020, the **BGS Office of State Safety and Security** developed a new system to report and track safety and security incidents. The new system is the Safety and Security Incident Reporting System and the vehicle to submit a concerning incident is the Safety and Security

Incident Report (SSIR). This new system allows state employees and the public who interact with state employees to submit reports which are reviewed and acted upon as necessary. Many reports concern potential or actual threats to state employees. This office refers appropriate matters to law enforcement, counsels victims in safety planning, and employs safety enhancements to state facilities appropriate. Reports can be run so that trends can be identified. BGS offers SSIR training understand what a security incident is and when to file a report, who can file a report, and how the information provided is evaluated. This training is available in DHR's LINC LMS.

The State's **Employee Assistance Program** offers the following services for all State of Vermont employees following a stressful or traumatic incident.

1. Group Resiliency Debriefings: 60-minute group debriefings that are facilitated by a master's-level EAP counselor. Debriefings are focused on processing the continuous stress that can occur during the ongoing uncertainty and anxiety caused by the pandemic. Topics will include gaining an understanding and awareness of specific signs of stress and discussing means of coping and regulating the stress response.
2. Individual Telemedicine Counseling Sessions: Access to private, confidential counseling sessions with a licensed master's-level counselor. Use of an encrypted telemedicine web platform allows State of Vermont employees to obtain EAP counseling through the comfort and safety of their own homes.
3. There is no cost to the employee and/or family members for up to five sessions of counseling. If more than 5 sessions are needed, the EAP counselor will help employee switch to an insurance-based service.
4. Resources are also available for supervisors and/or other employees. Examples include:
 - Supervisory Consultations for an employee or the immediate supervisor of employees about challenging situations in the workplace;
 - Supervisory Referrals for employees who may need EAP support to return to a previous level of performance;
 - Workshops on a wide array of topics;
 - Web-based resources and tools. The website has section on workplace safety as well as a section on mental health, stress and PTSD.

All Services utilized through EAP are strictly kept confidential.

<https://humanresources.vermont.gov/benefits-wellness/employee-support/employee-assistance-program>

EAP's website is: <https://www.investeap.org/>

EAP's phone number is 1-888-834-2830

Deployment of DCF's Helping our Peers Excel (HOPE) team, DOC and VSP's Peer Support Teams.

(D) educate State employees regarding how to file and pursue a workers' compensation claim for work-related post-traumatic stress disorder or another work-related mental condition that requires treatment or has become disabling.

1. The Vermont Department of Labor's website contains instructions geared toward employees for how to file a workers' compensation claim for any type of workplace injury or illness. A link is here: <https://labor.vermont.gov/workers%E2%80%99-compensation/injured-workers/claims-filing>
2. The Vermont Department of Labor's website contains an informational page on mental health workers' compensation claims. The document is in Appendix C.
3. The Office of Risk Management website contains instructions geared toward employees for how to file a workers' compensation claim for any type of workplace injury or illness. <https://aoa.vermont.gov/wcp/injury>
4. The Office of Risk Management website contains links to online training that can be accessed on DHR LINC LMS concerning reporting a WC claim with the current third party administrator.
5. The Office of Risk Management website contains information in the FAQ page on filing a workers' compensation claim for work-related post-traumatic stress disorder or another work-related mental condition that requires treatment or has become disabling. <https://aoa.vermont.gov/secretary/divisions/workers-comp/faq>
6. Risk Management is creating updated training sessions on the topic in conjunction with CAPS for new supervisors and orientations.

Conclusion

The State of Vermont as an employer has done an admirable job in addressing, preventing and treating workplace stress and PTSD among employees. The most powerful programs involve trained peers that help their co-workers process and overcome a stressful or traumatic event. EAP and other counseling programs are innovative and very helpful to those who have experienced workplace stress. The success of these programs is evident by the low number of workplace stress and PTSD related workers' compensation claims filed by employees. The State needs to continue to help prevent assaults on State staff. The resources in this report will provide guidance to solve this complex problem.

The Office of Risk Management would like to thank the following professionals for sharing the work they have done for this report: Shannon Morton and Brenda Gooley from Department of Children and Families; Kari Miner from the Department of Human Resources; Stephen Monahan from the Vermont Department of Labor; William McSalis from the Office of State Safety & Security, Department of Buildings and General Services; James Rice from Vermont Correctional Academy; Robin Cooley, Esq. and Laura Coffrin from Heilmann, Ekman, Cooley & Gagnon; Steven McKinnon and Doug Barritt from Oliver Wyman Actuarial Consulting, Inc., Brian Mitchell and Scott Ptak from PMA Management Corp. of New England; and Mazen El Ghaziri PhD, MPH, RN and Suzanne Nobrega, MS, from the Center for Promotion of Health in the New England Workplace (CPH-NEW) at University of Massachusetts Lowell.

Appendix A - Text of Section 16, Act 85

STATE EMPLOYEES; WORKERS' COMPENSATION; POST- TRAUMATIC STRESS DISORDER; MENTAL CONDITIONS; STUDY; REPORT

On or before January 15, 2021, the Agency of Administration, Office of Risk Management, in consultation with the Agency of Human Services, the Department for Children and Families, and the Departments of Human Resources and of Labor, shall submit a written report on the workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

The report shall:

- (1) examine the occurrence and frequency of workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions that are caused or aggravated by workplace stressors or workplace violence;
- (2) identify professions and occupations in State government that have a heightened risk of exposure to traumatic situations or stress that could cause post-traumatic stress disorder or other mental conditions;
- (3) include an inventory of currently existing prevention and education plans related to the occurrence of post-traumatic stress disorder and other mental conditions among State employees;
- (4) identify various approaches for preventing the occurrence of post-traumatic stress disorder and other mental conditions among State employees, including specific actions and methods to reduce the likelihood of job-related stressors or workplace violence; and
- (5) identify specific training and educational activities and materials that can be implemented to:
 - (A) enable State employees to better recognize situations, incidents, and other occurrences that may result in a stressful situation or violent interaction;
 - (B) enable State employees to better recognize the symptoms of post-traumatic stress disorder and other common mental conditions in themselves and their coworkers;
 - (C) identify the resources available to employees following a stressful or traumatic incident, including the Employee Assistance Program and counseling; and
 - (D) educate State employees regarding how to file and pursue a workers' compensation claim for work-related post-traumatic stress disorder or another work-related mental condition that requires treatment or has become disabling.

Appendix B – Risk Management reviewed State, Federal and academic resources. This is a list of high-quality resources, reports and trainings curated by Risk Management.

State of Vermont resources

Department of Human Resources

The State of Vermont Personnel Policies and Procedures Manual

<https://humanresources.vermont.gov/labor-relations/manual>

policy 11.11. Workplace Safety and Security

policy 16.1 Labor Management Committees

policy 17.7 Domestic and Sexual Violence Policy

Statewide Safety and Health Maintenance Committee

<https://humanresources.vermont.gov/labor-relations/labor-relations-policies/safety-and-health>

Employee Benefits:

Mental Health and Substance Abuse Benefits covered at 100% in network; out of network subject to deductibles and co-pays

<https://humanresources.vermont.gov/benefits-wellness/benefits/overview#What%20is%20the%20difference%20betwewen%20the%20two%20medical%20plans>

Live Well Vermont State employee wellness program

<https://humanresources.vermont.gov/benefits-wellness/wellness>

Employee Assistance Program

<https://humanresources.vermont.gov/benefits-wellness/employee-support/employee-assistance-program>

<https://www.investeap.org/>

Collective Bargaining Agreements

<https://humanresources.vermont.gov/labor-relations/labor-relations-policies/collective-bargaining-agreements>

VSEA

Non-Management Bargaining Unit, effective 7/1/20-6/30/22

Article 7: Labor Management Committee
Article 9: Employee Assistance Program
Article 29: Occupational Safety and Health Laws
Article 33: Injury on the Job
Article 52: Wellness Program

Supervisory Bargaining Unit, effective 7/1/20-6/30/22

Article 7: Labor Management Committee
Article 9: Employee Assistance Program
Article 33: Occupational Safety and Health Laws
Article 37: Injury on the Job
Article 56: Wellness Program

Corrections Bargaining Unit, effective 7/1/20-6/30/22

Article 7: Labor Management Committee
Article 9: Employee Assistance Program
Article 33: Occupational Safety and Health Laws
Article 37: Injury on the Job
Article 57: Wellness Program

Vermont Troopers Association, Inc., effective 7/1/20-6/30/22

Article 7: Labor Management Committee
Article 9: Employee Assistance Program
Article 24: Occupational Safety and Health Laws
Article 29: Injury on the Job
Article 47: Wellness Program

Agency of Human Services Policies

<https://humanservices.vermont.gov/rules-policies>

Policies geared toward clients, their family members and AHS staff
Policy 1.03 - AHS Response to Domestic and Sexual Violence
Policy 1.07 – Trauma Involved system of care

Department of Children and Families Policies

<https://dcf.vermont.gov/fsd/policies>

Policy 250 – Staff Safety

Policy 251 HOPE team

Policy 264 – Responding to Incidents

Appendix 12 – Response to Staff Safety Incidents

Vermont Department of Labor

Resources available through the Vermont Department of Labor’s to an Injured Worker

<https://labor.vermont.gov/workers%E2%80%99-compensation/injured-workers>

How-To File a Worker’s Compensation Claim

<https://labor.vermont.gov/workers%E2%80%99-compensation/injured-workers/claims-filing>

Injured Workers’ Forms

<https://labor.vermont.gov/workers%E2%80%99-compensation/injured-workers/injured-workers-forms>

Medical Case Management and Returning to Work

<https://labor.vermont.gov/workers%E2%80%99-compensation/injured-workers/medical-case-management-returning-work>

Post-Traumatic Stress Disorder and Mental Injury Claims, including the legal standard for determining if a mental injury/mental stress claim is compensable under the Workers’ Compensation Act

https://labor.vermont.gov/sites/labor/files/doc_library/PTSD-and-Other-Mental-Injury-Claims.pdf

For information pertaining to RETAIN Vermont – The Retaining Employment and Talent After Injury/Illness Network – a resource that provides support and guidance to injured workers

<https://vtretain.weebly.com/employee.html>

OSHA Resources on Workplace violence

OSHA's Fact Sheet regarding Workplace Violence

https://www.osha.gov/OshDoc/data_General_Facts/factsheet-workplace-violence.pdf

OSHA's educational overview of workplace violence

<https://www.osha.gov/workplace-violence>

OSHA's list of references regarding risk factors and scope of violence in the workplace

<https://www.osha.gov/workplace-violence/risk-factors>

OSHA's list of references providing guidance for evaluating and controlling violence in the workplace

<https://www.osha.gov/workplace-violence/prevention-programs>

OSHA's list of training and other resources regarding workplace violence

<https://www.osha.gov/workplace-violence/resources>

OSHA's publication regarding Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers

<https://www.osha.gov/Publications/osha3148.pdf>

OSHA Instruction regarding Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence

https://www.osha.gov/sites/default/files/enforcement/directives/CPL_02-01-058.pdf

OSHA's publication Workplace Violence in Healthcare: Understanding the Challenge

<https://www.osha.gov/Publications/OSHA3826.pdf>

OSHA's publication Caring for Our Caregivers: Preventing Workplace Violence: A Road Map for Healthcare Facilities

<https://www.osha.gov/Publications/OSHA3827.pdf>

OSHA's publication Workplace Violence Prevention and Related Goals: The Big Picture

<https://www.osha.gov/Publications/OSHA3828.pdf>

OSHA's resource page for Preventing Workplace Violence in Healthcare

https://www.osha.gov/dsg/hospitals/workplace_violence.html

OSHA's Workplace Violence Checklist

<https://www.osha.gov/SLTC/etools/hospital/hazards/workplaceviolence/checklist.html>

OSHA's online resource page regarding Workplace Violence

<https://www.osha.gov/SLTC/etools/hospital/hazards/workplaceviolence/viol.html>

OSHA's Violence Incident Report Form

<https://www.osha.gov/SLTC/etools/hospital/hazards/workplaceviolence/incidentreportform.html>

CDC and NIOSH

CDC's Workplace Violence Prevention Strategies and Research Needs

<https://www.cdc.gov/niosh/docs/2006-144/pdfs/2006-144.pdf?id=10.26616/NIOSH PUB2006144>

NIOSH's publication regarding Violence on the Job

<https://www.cdc.gov/niosh/docs/video/violence.html>

NIOSH's resource page regarding Violence Occupational Hazards in Hospitals

<https://www.cdc.gov/niosh/docs/2002-101/>

NIOSH's resource page regarding Occupational Violence.

<https://www.cdc.gov/niosh/topics/violence/>

NIOSH's online course regarding Workplace Violence Prevention for Nurses. It is also suitable for social workers.

https://www.cdc.gov/niosh/topics/violence/training_nurses.html

Academic Resources - The Center for Promotion of Health in the New England Workplace (CPH-NEW)

<https://www.uml.edu/Research/CPH-NEW/Research/Publications.aspx>

Correctional Officers and Stress

<https://health.uconn.edu/occupational-environmental/academics-and-research/cph-new/hitec-ii-project/lifestyle-overview/stress/>

Workplace Violence

<https://health.uconn.edu/occupational-environmental/academics-and-research/cph-new/hitec-ii-project/work-environment/workplace-violence/>

Stress@Work site

<https://www.uml.edu/Research/CPH-NEW/Worker/stress-at-work/>

Appendix C – Documents

1. Overview of the Workers' Compensation Process in Vermont
2. Analysis of physical-mental and mental-mental workers' compensation claims in Vermont
3. Workers' Compensation statutory changes creating a PTSD presumption for Police, Fire fighters and EMT's diagnosed by a mental health professional and incurred during service in the line of duty and New legal standard for determining whether any worker's mental injury/mental stress claim is compensable under the Workers' Compensation Act.

Overview of the Worker's Compensation Process in Vermont

Filing a Claim After a Work Injury

When a worker has been injured, he or she should report the injury to the employer as soon as possible. The employer and/or its insurer will then file a Notice of Injury with the Department of Labor. The employer and/or its insurer has 21 days from the date the employer received notice of injury to investigate the claim and determine if the injury is compensable.

Benefits Available After a Work Injury

If the injury is compensable, the employee may be entitled to one or more workers' compensation benefits including: (1) Medical benefits; (2) Wage replacement benefits (known as temporary partial disability and temporary total disability); (3) Permanency benefits (known as permanent partial disability and permanent total disability); (4) Vocational rehabilitation; and (5) Death benefits (available to a worker's spouse or family members if the worker dies from a compensable work injury).

Employee's Burden of Proof

A Workers' Compensation claimant has the burden of establishing all facts essential to the rights asserted. *See Goodwin v. Fairbanks*, 123 Vt. 161 (1963). The employee must establish, by sufficient credible evidence, the character and extent of the injury and disability as well as the causal connection between the injury and the employment. *See Egbert v. Book Press*, 144 Vt. 367 (1984). The employee must establish that the accident giving rise to the injury occurred "in the course of employment" (which establishes a time and place connection between the injury and the employment) and that it "arose out of the employment" (which establishes a causal connection between the injury and the employment).

If the employer asserts that the employee has not met his or her burden of proof, the employer may file a Form 2 *Denial of Workers' Compensation Benefits by Employer or Carrier*, along with supporting evidence. The Workers Compensation Specialist will then review the evidence to determine whether the employer's denial is reasonably supported.

If a Claim is Denied and the Employee Wishes to Appeal the Determination

If the employee wishes to appeal an employer's denial and/or a Workers Compensation Specialist's determination, the employee may appeal the denial by completing and filing with the Department of Labor, the second page (entitled *Notice and Form for Employee to Appeal Denial*) of the Department of Labor's Form 2 *Denial of Workers' Compensation Benefits by Employer or Carrier*. A copy of these forms can be found on the Department of Labor's website. The employee should provide supporting evidence, such as doctor's notes, emergency room records and witness statements) to support the appeal.

The employee may also complete and file with the Department of Labor, a Form 6 *Notice and Application for Hearing*.

Dispute Resolution

Informal Level:

Upon the Department of Labor's receipt of a *Notice and Form for Employee to Appeal Denial* and/or an employee's Form 6 *Notice and Application for Hearing*, or comparable written notice, the claim may be scheduled for an informal conference with the Department of Labor. The purpose of an informal conference is to identify and discuss disputed issues in an attempt to resolve the dispute(s). It is an opportunity for the parties to ensure they have complete information, clear up any misunderstandings or miscommunication involving factual issues and allow the parties to identify the specific evidence they are relying on to support their respective positions. Evidence may include, but is not limited to, specific medical records, a medical opinion, witness statements, and affidavits. Parties may also reference specific laws, rules, or prior hearing decisions by the Commissioner or the Vermont Supreme Court that may be applicable and set precedent on the particular issues in dispute. It is the responsibility of each party to gather and file with the Department of Labor and the opposing party or its representative copies of the medical records and other documents relied upon in the informal resolution process.

Formal Level:

When it appears that no further progress toward resolution is likely at the informal level, the matter may be forwarded to the Formal Hearing docket. The purpose of the Formal Hearing is to determine the rights of the parties. In general, hearings are conducted in accordance with the Vermont Rules of Civil Procedure and the Vermont Rules of Evidence, but only insofar as they do not defeat the informal nature of the hearing.

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ANALYSIS OF PHYSICAL-MENTAL AND MENTAL-MENTAL
WORKERS' COMPENSATION CLAIMS IN THE STATE OF VERMONT

If a claimant sustains a physical injury and a related mental injury, this is called a physical-mental claim. In such claims, the claimant has the burden of proving a causal connection between the work-related injury and the resulting mental condition. *Blais v. Church of Jesus Christ of Latter Day Saints*, Opinion No. 30-99Wc (Aug. 5, 1999).

If there is no physical injury, the claim is called a mental-mental claim. For mental-mental injuries sustained prior to July 1, 2017, a claimant must prove not only that job-related stress actually existed, but that the stress was of significantly greater dimension than the daily stresses encountered by similarly situated employees. *Mazut v. General Elec. Co.*, Opinion No. 3-89WC (Oct. 26, 1990); *Bedini, supra*, *Crosby v. City of Burlington*, Opinion No. 43-99WC (Dec. 3, 1999). For mental-mental injuries sustained after July 1, 2017, a different standard applies.¹ 21 V.S.A. §601(11)(J) now provides that a mental-mental claim is compensable if a claimant establishes by a preponderance of the evidence that (1) the claimant's work-related stress or event was extraordinary and unusual in comparison to the pressures and tensions experienced by average employees across all occupations, and (2) the work stress or event, rather than some other event or source of stress, was the predominant cause of the mental condition. In addition, 21 V.S.A. §601(11)(I) provides that, in claims made by first responders (i.e., police officers, fire fighters, EMT's) for a diagnosis of PTSD, it is presumed that the PTSD was incurred in the line of service and is compensable, unless it is proved by a preponderance of the evidence that the PTSD was caused by non-service risk factors or exposure.

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¹ Because the amendment imposed substantive changes, it does not apply retroactively to claims that were acquired, accrued or incurred prior to its effective date. *See B.H. v. State of Vermont*, Opinion No. 17-17WC (Dec. 22, 2017), at Footnote 26.

Workers' Compensation statutory changes creating a PTSD presumption for Police, Fire fighters and EMT's diagnosed by a mental health professional and incurred during service in the line of duty.

AND

New legal standard for determining whether any worker's mental injury/mental stress claim is compensable under the Workers' Compensation Act.

The Legislature amended the Vermont Workers' Compensation Act to make it easier for police, fire, and EMT workers to file a compensable PTSD claim, and amended the legal standard applied to other claims for mental injuries arising out of and in the course of employment for all workers.

Act No. 80 (2017) provides:

Sec. 23. 21 V.S.A. § 601 is amended to read:

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(I) (i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) 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 shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) "Firefighter" means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) "Mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed to provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) "Police officer" means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) "Rescue or ambulance worker" means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(J) (i) A mental condition resulting from a work-related event or work-related stress shall be considered a personal injury by accident arising out of and in the course of employment

and be compensable if it is demonstrated by the preponderance of the evidence that:

(I) the work-related event or work-related stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations; and

(II) the work-related event or work-related stress, and not some other event or source of stress, was the predominant cause of the mental condition.

(ii) A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

From Vermont Department of Labor website

<https://labor.vermont.gov/workers%E2%80%99-compensation>