



February 23, 2021

The Honorable Anastasia Williams
Chair, House Labor Committee
State of Rhode Island
House of Representatives
State House
Smith Street
Providence, RI 02903

Re: H 5473

Dear Chairwoman Williams:

Please accept this letter in support of H 5473 which is presently pending in the House Labor Committee.

The bill relates to amendments of the Rhode Island Workers' Compensation Act. The proposed amendments to RIGL Sections 28-33-22 and 28-33-44 as contained in Section One were largely adopted by the General Assembly in 2019.¹ For this reason, we recommend that the Committee remove these proposed amendments.

We support the proposed amendment to RIGL 28-33-2 as it refines the law relating to intoxication in the workplace and entitlement to benefits in the event of an injury. The statute presently says that there is no entitlement to benefits in the event an injury is caused by a willful intent to injure oneself or by intoxication. But if an employee is intoxicated at the time of an injury or death, unless the employer can prove that the intoxication caused the injury, the employee is entitled to benefits. The proposed language eliminates this incongruity.

The statute was last amended in 1982. Since that time, the misuse of prescribed controlled substances has become a scourge on our society to include the workplace. Likewise, the testing available to determine intoxication has been refined. This revision eliminates the shifting of the burden of proof from the employer to the employee if it is proven that there was intoxication or that an intoxicating controlled substance was not used in accordance with the prescribed use of the drug or as authorized by a medical practitioner. The employee will then be required to prove that the injury arose out of and in the course of employment. The end result is that the intoxicated employee who suffers an injury will no longer enjoy the shield of the present law.

We support the proposed amendment to RIGL 28-33-19 on equity grounds. If an employee fails to inform an employer or its insurance company that he or she has returned to work, and they continue to receive indemnity benefits, there is no provision presently for a credit against future

¹ P.L. 2019, ch. 218, § 1; P.L. 2019, ch. 248, § 1.



specific compensation benefits. The change proposed would allow that credit to take place. Likewise, we support the change in RIGL 28-33-20.1 as it would level the burden of the employer and the employee in the event of a recurrence or change from total to partial incapacity. Both the employer and the employee would have the same burden.

Finally, the change proposed in Section 2 would simply codify existing law in relation to employer penalties and workers' compensation insurance policy provisions. RIGL 28-33-22 , 28-33-44 and 28-33-47 reference obligations of the employer as opposed to the workers' compensation insurance carrier. This statute clarifies the insurance statute and eliminates any ambiguities between the employer and its carrier.

In summary, we appreciate the time you have taken to consider our view and appreciate your support of the above. Please share a copy of this letter with the Committee.

Very truly yours,

MICHAEL D. LYNCH