



VIA Email to: HouseLabor@rilegislature.gov

March 1, 2021

Representative Anastasia P. Williams
Chair, House Committee On Labor
Rhode Island State House
Providence, RI 02903
(Via jdecastro@rilegislature.gov)

Re: House 5474 – An Act Relating To Labor And Labor Relations – Workers’ Compensation
Occupational Diseases

Dear Madam Chair:

This statement in opposition to House 5474 is submitted by the American Property Casualty Insurance Association (APCIA).¹

House 5474 is a broad bill that could add millions of dollars in new costs for businesses in Rhode Island and distort the basic purpose of workers compensation – by making employers liable for COVID-19 and other cases that are unrelated to work. This unfairly shifts the cost of pandemic response onto employers and could jeopardize the stability of the workers’ compensation system. This is especially troubling given that the workers’ compensation system in Rhode Island is working - claims are being paid, petitions are being filed at the Workers’ Compensation Court and are being granted.

- House 5474 is Too Broad

In 2020 eight states enacted workers’ compensation presumption proposals with a further seven states adopted limited presumptions via executive orders. In 2021 sixteen states have legislation pending. The vast majority of these proposals extend a COVID-19 presumption to a select targeted class of workers such as health care providers. Few appear to be as broad as the one proposed in this bill. Nonetheless, however, the reach of the bill in terms of potentially targeted employees, and its retroactive impact arguably makes this proposal one of the broadest and costliest in the country.

¹ Representing nearly 60% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write about 36% of the workers’ compensation insurance sold in the state.

- House 5474 Violates Basic Principles of Workers' Compensation

House 5474 is potentially dangerous to the health of the Rhode Island workers' compensation system on a public policy level as well. Workers' compensation is a no-fault system that guarantees injured workers prompt indemnity benefits and unlimited medical care, without any deductibles or co-payments, even in the absence of any fault by the employer. Essential to maintaining this no-fault workers' compensation is proof that a covered injury or disease arises out of and in the course of employment. Requiring Rhode Island employers to cover injuries on an absence of fault basis, without proof that the injury or disease arose out of and in the course of employment, without even a diagnosis or test, violates basic core principles underlying the entire workers' compensation system.

The stability, sustainability, and predictability of the Rhode Island workers' compensation system was hard-won and is the product of continued engagement by all its stakeholders. House 5474's divergence from the basic principles of workers' compensation upsets this balance. In this regard, it is important to note that while workers' compensation provides benefits for disability due to work-related injuries, other programs such as health insurance, TDI, unemployment insurance and other pandemic programs provide other benefits to address COVID-19 needs. The workers' compensation system was never intended to remedy the needs fulfilled by such other benefits.

- Other Concerns

In addition to the main points noted above, there are many other concerns with the bill. Its extension to police and firefighters confuses and conflates things since they are statutorily subject to the Injured on Duty (IOD) provisions of the law (RIGL 45-19-1) and are specifically excluded from the workers' compensation system. Many other provisions in the bill are ambiguous and thus subject to differing interpretations with the potential for an increase in litigated claims and a resultant burden on the Workers' Compensation Court. Thus, this bill is a significant concern for all who write workers' compensation insurance in Rhode Island.

For all of these reasons, APCIA opposes House 5474 and urges the committee hold the bill for further study.

Very truly yours,

A handwritten signature in black ink that reads "Francis C. O'Brien". The signature is written in a cursive style with a large initial 'F' and a distinct 'O'Brien'.

Francis C. O'Brien
Vice President, State Gov't. Relations

CC Members of the House Labor Committee