

Senate Judicial Proceedings Committee

SB 431: Workers' Compensation – Occupational Diseases Presumption – Long COVID

UNFAVORABLE | March 5, 2024

Chair Beidle and Members of the Senate Finance Committee,

The National Association of Mutual Insurance Companies (NAMIC) appreciates the opportunity to provide this letter in opposition to Senate Bill 431. While well-intended, we believe SB 431 is unnecessary and will likely create upward pressure on workers' compensation premiums in the state.

NAMIC is the largest property and casualty insurance trade association in the country, with nearly 1,500 member companies. NAMIC supports regional and local mutual insurance companies as well as some of the country's largest national insurers.

NAMIC very much appreciates the desire to ensure that first responders and frontline medical personnel are protected. Workers' compensation coverage is a critical part of this protection, as it has been for decades. A key principle of workers' compensation coverage for occupational disease is that the disease must be work-related and arise in the course and scope of employment.

The existing statute provides the necessary structure to determine whether COVID-19 claims likely were caused by employment or not. COVID-19 does present challenges because it is also a disease that is spread in the community at large. But this fact only illustrates the caution called for when presumptions of work-relatedness are established. An overly broad presumption of the work-relatedness of COVID-19 claims combined with rampant community spread could easily overwhelm workers' compensation system.

Presumptions in general remain a concern because of the lack of ability to rebut something that did not need to be proven. Employers and insurers want to compensate injured employees for their contractually compensable claims and assist workers in getting back to work if possible. However, when clear standards are eliminated and overbroad presumptions are placed upon the system, it adds significant and potentially unwarranted costs.

Workers' compensation systems have existed for more than a century, and claimants have always been able to submit proof to prove the legitimacy of a claim. Employers and insurers willingly pay workers' compensation claims that are meritorious and have been underwritten and priced according to the known risk at the time of contractual promise. However, when conditions that have traditionally been absorbed by health insurance and other accident and sickness policies are shifted to the workers' compensation system, a significant disruption occurs that has a significant impact.



Finally, SB 431 is applied retroactively to claims filed on or after March 5, 2020. This particular provision is problematic because adequate premium has not been obtained to cover these losses which may cause solvency concerns for smaller insurers in particular.

For the many reasons outlined above, NAMIC respectfully requests an unfavorable report on SB 431.

Thank you,

Matthew Overturf

Matt Overturf
Regional Vice President
Ohio Valley /Mid-Atlantic Region