

FISCAL NOTE
Requested by Legislative Council
01/19/2015

Bill/Resolution No.: SB 2256

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

see attachment

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

see attachment

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: John Halvorson

Agency: WSI

Telephone: 328-6016

Date Prepared: 01/19/2015

**WORKFORCE SAFETY & INSURANCE
2015 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION**

BILL NO: SB 2256

BILL DESCRIPTION: PTSD Coverage

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed bill provides benefits for posttraumatic stress disorder sustained by first responders, including full-time paid firefighters, full-time paid law enforcement officers, and full-time paid emergency medical services personnel; requires the condition causing the posttraumatic stress disorder to be extraordinary and unusual when compared to the normal conditions of the particular employment; limits disability benefits to no more than twenty-six weeks; and limits all other benefits to \$15,000.

FISCAL IMPACT: Not quantifiable. We don't anticipate that the proposed legislation will have a material impact on statewide premium rate levels; however, rates for the specific first responder classifications may increase over time as a result of the expanded coverage. To what extent is unclear as we don't have access to an appropriate base of historical experience to use in deriving the estimates.

DATE: January 19, 2015

2015 SENATE HUMAN SERVICES

SB 2256

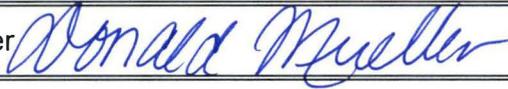
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2256
1/26/2015
22487

- Subcommittee
 Conference Committee

Donald Mueller



Explanation or reason for introduction of bill/resolution:

A bill relating to workers' compensation coverage of first responders for posttraumatic stress disorder; to provide for application; and to provide an expiration date.

Minutes:

Attach #1: Testimony by Jodi Bjornson
Attach #2: Testimony by Sen. George Sinner
Attach #3: Performance Evaluation of North Dakota Workforce Safety and Insurance, by Sedgwick
Attach #4: Testimony by Dan Donlin

Jodi Bjornson, General Counsel with Workforce Safety and Insurance (WSI), testified in favor of SB 2256 (attachment #1) (oral testimony ends 6:25)

Chairman Judy Lee invited Senator Sinner to the podium.

Senator Sinner: District 46, spoke in favor of SB 2256 (attachment #2). (7:25-10:00)
Provided Sedgwick report, Performance Evaluation of North Dakota Workforce Safety and Insurance (attachment #3)

No questions for Senator Sinner

Senator Warner: Say that there is a military flight surgeon, no PTSD diagnosis, now civilian as ambulance driver, and subsequently diagnosed with PTSD. Does he have burden of proof to prove that his injury was not derived from his military experience rather than his civilian experience?

Jodi Bjornson: Those types of situations that would occur WSI would rely on a medical professional to help figure out what it is contributed too. We would be looking at an incident in employment that we could relate back to that was at least 50% of the current cause of PTSD so if a medical professional could tell us that it would be compensable. I am hesitant to give a hard and fast rule because there are so many things that impact the diagnosis that I am not really qualified to respond to but I can tell you that we would rely on the medical professionals for that answer.

Senator Warner: Is the claim based on cumulative damage done by a series of incidents, lower level incidents or one specific acute incident.

Jodi Bjornson: What this bill focuses on is the incident. To the extent that there was cumulative trauma, that is not what this bill is to protect at this point but those things may factor into the diagnosis. It would still have to be 50% of a current episode that caused the PTSD, irrespective of what happened. There is provision in the bill that if PTSD was in existence prior to, the medical professional has to take that into account.

Senator Warner: That would require a formal diagnosis earlier?

Jodi Bjornson: Yes it would.

Chairman Judy Lee: Is there collaboration that would possibly take place between the veteran's administration and WSI?

Jodi Bjornson: What I would expect a claims adjuster would gather relevant information from provider to make sure they have the comprehensive medical notes to make that determination. By and large we coordinate the effort.

Senator Howard Anderson, Jr.: What happens to the volunteer firefighter where the same thing happens for them?

Jodi Bjornson: Volunteers are not contemplated for PTSD under this bill. They are to rely on private insurance.

Senator Howard Anderson, Jr.: Does WSI have policy for volunteers?

Jodi Bjornson: Generally volunteer coverage isn't mandatory, it is elective. For volunteer firefighters, it is a mandatory volunteer coverage.

Chairman Judy Lee: You provide the insurance for those who choose to have coverage?

Jodi Bjornson: Yes.

Senator Dever: Have you had claims that have been denied.

Jodi Bjornson: Yes we have. The performance evaluation results, out of 11 claims, 3 would fit into the mental injury. That is for a 3 year period.

Senator Dever: Why is there a sunset clause?

Jodi Bjornson: To give the bill an opportunity to develop. We haven't paid for something like this before. 2 years seem sufficient time to get a grasp on this.

Senator Axness: Out of 11 claims 3 were identified in the report. What was the timeframe of these 3 in relation to the sunset clause? Did that occur in the past 2 years or 10 years?

Jodi Bjornson: For the 3 years preceding the performance evaluation so I would expect it to be 2011, 2012, and 2013 but I would like to verify that for you.
End of testimony

Dan Donlin: Chief of Police, testified in favor of SB 2256 (attachment #4). (19:17-23:25)

V. Chairman Oley Larsen: I thought with new insurance revamp that one of the 10 essential benefits is mental health. Is this grandfathered in or does your insurance not carry that?

Dan Donlin: We have a program within the city of Bismarck where you can get a certain number of visits, the Employee Assistance Program. We also provide a certain limited time with mental health involved in shooting.

Chairman Judy Lee: Under federal health care reform, there is mental health parity. The difference is that it overlaps. The wound heals, but mental health issues continue. If someone comes back and has exhausted their benefits, how does that interact with WSI?

Senator Dever: Is the officer in need of services that he would be provided by WSI that he wouldn't get from somewhere else.

Dan Donlin: Not sure of what the services WSI provides and what gaps there are.

Senator Dever: Is your officer getting the services he needs?

Dan Donlin: Right now, yes, but looking at treatment centers and facility out of state to treat an officer who is suffering from PTSD right now.

End testimony.

OPPOSED TO SB 2256
No opposing testimony

NEUTRAL TO SB 2256
No neutral testimony

Chairman Judy Lee: How do you determine what is covered between medical insurance and WSI?

Jodi Bjornson: We would determine what is provided based on statute. WSI will pay statutory what they are authorized to pay. If another coverage (private), we will coordinate those benefits.

Senator Howard Anderson, Jr.: WSI would pay for the benefits while they are off work. Other policies may not cover that.

Jodi Bjornson: WSI would pay up to 26 weeks for this condition.

Jodi Bjornson: Let me clarify, I looked up the claims from 2011-2013 and the window for the 3 claims, and there were 10 claims. Only 2 met the qualifying circumstances for the potential coverage.

Chairman Judy Lee: So the other 8 cases would not have been covered?

Jodi Bjornson: Yes, that is correct.

Closed Hearing on SB 2256.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2256
1/26/2015
22522

- Subcommittee
 Conference Committee

Committee Clerk Signature

Ronald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to workers' compensation coverage of first responders for posttraumatic stress disorder; to provide for application; and to provide an expiration date.

Minutes:

"Click to enter attachment information."

These are minutes from the Senate Human Services Committee on January 26, 2015.

Senator Dever wondering what the arguments were in the interim committee in rejecting the bill.

Chairman Judy Lee indicated we could ask. Can femi provide why SB 2256 did not move forward from the interim committee from Legislative Council, who staffed WSI.

Senator Warner why doesn't it have a fiscal note?

Chairman Judy Lee indicated they can't determine it - it has fiscal note, but no amount. They have no idea about the impact.

Senator Warner stated our disposition here would be before the floor.

Chairman Judy Lee do we need to re-refer it?

Senator Dever stated he chairs the employee benefits committee, if a bill has an impact to PERS plan, it has report to employee benefits. Similarly, if bill has an impact on the WSI fund, it should have a report from WSI. I think there should be the report even if the impact is negligible.

Chairman Judy Lee indicated that they should fill out the form.

Senator Dever provided a list of the people who were on the interim committee. Jennifer Clark is on the committee from Legislative Council. Also may want to look at interim report. She would also familiar with the requirement for a report.

Chairman Judy Lee stated let's get Jennifer Clark from Legislative Council.

Senator Dever indicated the interim committee met 4 times.

Senator Dever forwarded to Femi. (SB 2256) information. 3 pages of interim committee. Bottom of page 1 and top of page 2. It hasn't been presented to governor, so that could be reason why they haven't provided. **Senator Howard Anderson, Jr.** also indicated that interim committee members struggled with PTSD expansion. If first responders in this bill, the bill will be expanded further.

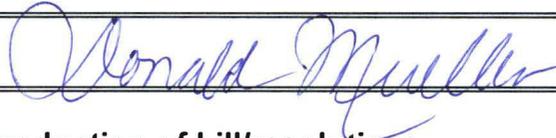
2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2256
1/26/2015
22533

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A bill relating to workers' compensation coverage of first responders for posttraumatic stress disorder; to provide for application; and to provide an expiration date.

Minutes:

Attach #1: Workers' Compensation Review Committee Minutes

These are minutes from the Senate Human Services Committee for January 26, 2015.

Chairman Judy Lee asked **Jennifer Clark**, Legislative Council, why the interim committee did not move this bill forward.

Jennifer Clark, Legislative Council (neutral). Worked with committee. Ms. Clark provided a copy of the Worker's Compensation Review Committee Minutes (attach #1). Every 4 years they have performance evaluation. There are multiple elements that are in the performance evaluation. One of them in the most recent was evaluating "Mental Mental". Worked with WSI and they provided the language for this. Discussion was around slippery slope.

Chairman Judy Lee when Senator Dever was researching, he found in the minutes, the board didn't have time to review the recommendation so they didn't want to make a recommendation regarding the bill, and yes there was some discussion by Senator Campbell and Senator Lefine. We were curious now why it is here but the interim committee had not moved it forward.

Ms. Clark stated the WSI Board did receive a copy of the recommendations from the interim committee, and then moved it forward. WSI did not introduce it themselves.

Senator Dever stated the other question was whether or not WSI was supposed to include a report in the bill on any impact on their fund.

Ms. Clark indicated she is familiar with the section. Historically, they have not done this, but commonly we receive part of the fiscal note.

Chairman Judy Lee indicated that testimony said they don't know.

Senator Dever indicated that there were 2 people were denied who would have qualified.

Chairman Judy Lee indicated 30. The other 8 wouldn't qualify.

2015 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2256
2/2/2015
23007

- Subcommittee
 Conference Committee

Committee Clerk Signature

Ronald Mueller

Explanation or reason for introduction of bill/resolution:

A bill relating to workers' compensation coverage of first responders for posttraumatic stress disorder; to provide for application; and to provide an expiration date.

Minutes:

Attach #1: Written testimony by Brad Jerome

These are minutes from the Senate Human Services Committee on February 2, 2015.

Senator Dever asked about amendments proposed?

Chairman Judy Lee indicated no amendments

Senator Dever indicated that interim rejected because WSI hadn't taken a position on it. Read the email from officer regarding this bill.

Senator Dever made a motion to recommend the Senate Human Services Committee DO PASS SB 2256. The motion was seconded by **Senator Axness**.

Roll Call Vote

6 Yes, 0 No, 0 Absent. Motion passed

Senator Dever will carry SB 2256 to the floor.

Written testimony provided after SB 2256 Hearing:

- **Brad Jerome** (attach #1)

Date: 02/02 2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2256

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Dever Seconded By Axness

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	✓		Senator Tyler Axness	✓	
Senator Oley Larson (V-Chair)	✓		Senator John M. Warner	✓	
Senator Howard C. Anderson, Jr.	✓				
Senator Dick Dever	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Dever

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2256: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2256 was placed on the
Eleventh order on the calendar.

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2256

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2256
3/4/2015
24396

- Subcommittee
 Conference Committee

Ellen Stang

Explanation or reason for introduction of bill/resolution:

Worker's compensation coverage of first responders for posttraumatic stress disorder, provide for application & provide an expiration date.

Minutes:

Attachment A, A1, 1, 2, 3, 4

Chairman Keiser: Opens the hearing on SB 2256.

Senator George Sinner~District 46-Fargo: Introduces SB 2256. (Attachment A & **A1**)

Representative Louser: Back in January we heard HB 1317 and are these two bills identical?

Sinner: I'm not familiar with the other bill, I have no idea.

Representative Ruby: In your definition of first responder, would that also include an employee of a large company that is designated as a first responder in case of an emergency?

Sinner: I don't believe so.

Jodi Bjorenson~Legal Counsel with Workforce Safety & Insurance (WSI): (Attachment 1).

10:15

Representative M Nelson: Did the Sedgwick audit state a reason why they are making a recommendation to do this?

Bjorenson: No, it did not but I think that a number of states are heading down that path.

Representative M Nelson: With those states that are doing this, do we have any data from them to show effects on premiums?

Bjorenson: There is data if you look at the performance evaluation, it's anecdotal in nature. There was not firm data on which the evaluator could base assumptions but they did include some on the states they did review. I would refer you to that document.

Representative Ruby: Line 13, mentions the event, so that has to be one event but in some of the other language, it doesn't specify that it has to be from an event not a series of events. But then, down on line 23, when it brings in a series of events, it almost could leave open the door that potentially be applied to be covered if it was a series of events. Do you see that ambiguity?

Bjorenson: The intent of the bill as written is to have this extraordinary and unusual event but one event. It wouldn't cover accumulative trauma, you would have one precipitating event.

Representative Ruby: If you look on line 10, page 2, it says posttraumatic stress disorder was extraordinary & unusual in comparison to the normal conditions of the particular employment, it doesn't say the event?

Bjorenson: I see your point; would it work better to have some more exacting language there?

Representative Ruby: That would be more similar to the previous bill. This is broader and leaves it open further than the other bill. Line 9, talks about the injured employee established by a preponderance of the evidence that the condition causing the disorder, but further down it talks about must be diagnosed by a licensed psychiatrist or psychologist. It seems that in one hand the employee must establish that the condition exists but yet you are requiring it to be backed up by a professional.

Bjorenson: All of the evidence presented in the case would go to support that employee case. The physician or doctor's testimony will help that employee meet the preponderance of the evidence. Ultimately through the whole case, it's up to that employee to carry the burden of proof.

15:11

Representative Ruby: You mentioned that we are in the minority in this coverage; would that be for only first responders or employees in general? How many other states have our benefits covering heart attacks?

Bjorenson: Answer for the second question, I don't have that information. The answer to your first question is that there is a nice breakdown of the benefits provided by each state within the performance evaluation.

Representative Ruby: Did they recommend that we only cover for first responders or for all employees?

Bjorenson: Their recommendation was narrower in nature, looking at unusual or extraordinary events of victims of violent crimes or the first responder's bill where the 3 pools that states have covered. They recommended that we fashion our legislation after.

Representative Kasper: The extraordinary and unusual comparison to the normal conditions of the particular employment. How do you get to define extraordinary and unusual in light of the fact that they generally have extraordinary and unusual events every day or week. How do you get to the event where they qualify?

Bjorenson: The adjuster that makes those determinations would look at the activities. These activities would be an outlier, what they wouldn't see normally or day to day basis.

Representative Kasper: I can't see how you define what you see on a day to day basis is normal, because every day to day is different. How do you get to the point of deciding what caused it and determine this is extraordinary or unusual?

Bjorenson: You will know it when you see it.

Representative Kasper: I will go back to the job, the expectation when they are making the decision of going into that profession that includes the extraordinary and not a Polly Anna place. That is the career they wanted and choose.

Dan Donlin~Chief of Police of the Bismarck Department: (Attachment 2). Handout from someone who was not able to attend (Attachment 3).

25:55

Representative Ruby: Can you help me understand how that can be managed by WSI when they would get a claim?

Donlin: Everyone does deal with that differently. We would have to trust the medical doctor's evaluation.

Representative M Nelson: There are two hands with WSI, there is the coverage of the worker and the other the immunity of the employer. Without this coverage, you are naked as far as a law suit. Is there administration's talk about limiting the liability?

Donlin: I have not really worried about the liability as long as we are following policy of the law, but my perspective is the physical and mental health welfare.

Representative M Nelson: City of Bismarck has never been sued for PTSD?

Donlin: Not that I know about.

Chairman Keiser: Can you tell us your accomplishment.

Donlin: (Explains his accomplishment).

Chaplin Sam Saylor~Bismarck PD & FD: My job is to help with the trauma with the Bismarck departments.

Bill Bush~President of the Professional Firefighters Association: Our goal is for the presumptive clause to never be used. We follow the guidelines that WSI gives us to prove we can do the job and maintain a healthy lifestyle. There is a stress management team, but one thing we have is we have our crew which we monitor ourselves. In the end, the doctors will explain what the true triggers are.

Tom Ricker~President of the North Dakota AFL-CIO: I encourage you to pass this bill and look at the Sedgewick report and follow their recommendation.

Dr David Brook~Board Certified~Board Certified Clinical Neurological Psychologist who evaluates and treats PTSD: I think trauma is neurologically encoded in the limbic portion in the brain. There is a break down in connections so people who are traumatized can't get logic and emotion together very well for some circumstances. Trauma is a disorder of having too much internal emotion and not able to turn it down and access logic. I believe that trauma is very treatable. There is acute trauma and PTSD stress disorder, but trauma is complex and there is a clear criterion for PTSD.

Representative Kasper: In your experience where it is just one event versus a series of events. Is there a percentage?

Brook: It's highly variable; many of the people I treat may have multiple events and few just one event.

Representative Ruby: Within WSI, there are already areas of difficulty to determine whether the pain or injury is from one incident or an accumulative. Is there ability to see the damage to the brain when there is PTSD? If that's true, is there any measurement you can use to determine accumulative trauma?

Brook: I probable mislead a little bit, it affects the nervous system and brain. There are some scans but I don't know if it would clear the change. It's extremely expensive.

Representative M Nelson: The bill limits benefits to 26 weeks of disability and \$15,000 to other things, is that a reasonable amount and time to treat PTSD?

Brook: Most people will be within those limits, it varies with each situation.

Representative Laning: Do you have any information to indicate the success rate of treatment of PTSD?

Brook: About 90% of the people I treat get through it but at different rates of success.

Chairman Keiser: Do you have general idea of PTSD cases that were first responders?

Brook: Five or ten a year.

Chairman Keiser: Anyone else here to testify in support of SB 2256, opposition?

Jon Godfread~Vice President of Government Affairs at the Greater North Dakota Chamber: We stand in opposition and the questions asked are our concerns. It definitely opens up to more litigation to what the event is and the accumulative. Also, I believe this is the first time we have a carve out for a special sub-set of employees dealing with mental issues. So you can definitely see how this can expand over time and as you see that the employers who pay into these funds raise those concerns. I want to be on the record about these concerns. (Attachment 4)

Arik Spencer~North Dakota Carriers Association: We stand in opposition on SB 2256 and echo the chamber's concerns.

Russ Hanson~Associated Contractors of North Dakota: We stand in opposition of this bill. We concur with the testimony provided from Mr Godfread. Representative Ruby analogy hit the crux of the difficulty that you have in setting policy.

Alexis Baxley~North Dakota Petroleum Council: We also stand in opposition on SB 2256.

Chairman Keiser: Anyone else here to testify in support of SB 2256, opposition, neutral?
Closes the hearing the hearing on SB 2256.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2256
3/9/2015
24468

- Subcommittee
 Conference Committee

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Worker's compensation coverage of first responders for posttraumatic stress disorder, provide for application & provide an expiration date.

Minutes:

Chairman Keiser: Opens the work session on SB 2256 which is the PTSD bill. What are the wishes of the committee?

Representative Ruby: Moves a Do Not Pass.

Representative Becker: Seconded.

Representative Kasper: I visited with Jodi quite a bit and tried to figure out what this bill really does. I'm concerned that the wording doesn't really accomplish much of anything so I'm going to support the motion.

Chairman Keiser: What happened during the hearing on this bill where the proponent brought in somebody to testify that upheld the other side's opinion. My concern I had is its discriminatory and PTSD is very extensive issue. The way he manages this is to go back into his early years to look for the events that occurred that created an option for a trigger event. We call that preexisting conditions and for that reason I cannot support this.

Representative Ruby: The problem he had that is rarely one single event and that is a multiply of events.

Roll call was taken for a Do Not Pass on SB 2256 with 10 yes, 2 no, 3 absent and Representative Ruby will carry the bill.

Date: Mar 9, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2256

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Ruby Seconded By Rep Becker

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor	x	
Vice Chairman Sukut	x		Representative Louser	x	
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman		x
Representative Devlin	x		Representative Boschee		x
Representative Frantsvog	Ab		Representative Hanson	Ab	
Representative Kasper	x		Representative M Nelson	Ab	
Representative Laning	x				

Total (Yes) 10 No 2

Absent 3

Floor Assignment Rep Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2256: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (10 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING).
SB 2256 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2256

Attch#1
SB 2256
01/26/2015

2015 SB 2256
Testimony before the Senate Human Services Committee
Presented by: Jodi Bjornson
Workforce Safety and Insurance
Date: January 26, 2015

Mr. Chairman, Members of the Committee:

My name is Jodi Bjornson, General Counsel with Workforce Safety and Insurance (WSI). On behalf of WSI, I am here to provide information on Senate Bill 2256. The WSI Board of Directors supports this bill.

This bill proposes new benefits for first responders who sustain posttraumatic stress disorder (PTSD) caused by an extraordinary and unusual mental stimulus during the course of employment.

Currently, N.D.C.C. section 65-01-02(10)(a) allows for the payment of claims for mental injuries when the mental injuries are caused by a compensable physical injury, the physical injury is at least 50% of the cause of the mental condition, and the mental condition did not preexist the physical injury. This standard applies to the entire work force, regardless of the profession in which the injured employee works. North Dakota law specifically excludes mental injuries arising from mental stimulus. N.D.C.C. 65-01-02(10)(b)(10). These are commonly referred to as "mental-mental" claims.

The proposed legislation would carve out an exception to the "mental-mental" exclusion, and allow WSI to pay benefits for a particular kind of mental-mental claim, PTSD. In order to qualify for benefits, an injured employee must be a first responder. First responders are defined as full-time paid fire fighters; full-time paid law enforcement officers as provided in current workers compensation law; and full-time, paid emergency medical personnel as defined in Chapter 23-27, the law governing emergency medical services.

Under this bill, the first responder has the burden to prove that the condition causing the PTSD was extraordinary and unusual when compared to the normal conditions of that particular employment.

Like the current standard in place for other mental injuries, the employment event has to be at least 50% of the cause of the PTSD, and the PTSD cannot preexist the extraordinary and unusual employment event. The bill also requires diagnosis of PTSD by a licensed psychiatrist or psychologist. The diagnosis must meet established criteria in the *Diagnostic and Statistical Manual of Mental Disorders*, the standard classification of mental disorders used by mental health professionals in the United States.

Excluded from the bill are claims for PTSD arising out of personnel or human resource type matters such as disciplinary actions, terminations, or work evaluations. The benefits available to a qualifying first responder are up to twenty six weeks of disability benefits, and up to \$15,000 for all other benefits. A qualifying employee may receive both disability and "other" benefits, up to the established caps. We expect the "other" benefits category will be primarily for mental health related services and prescription drug costs.

A bill identical to this was considered by the Workers Compensation Interim Review Committee during the past interim, but was not forwarded on to Legislative Management for the Legislative Assembly's consideration. That bill was the result of recommendations from the 2014 Performance Evaluation of WSI conducted by the company Sedgwick. Sedgwick recommended that legislation of this kind be proposed.

As to the bill's application, the bill applies to injuries that occur on or after the effective date of this Act. This means both the employment event and the PTSD must occur after the effective date of this Act. Also, a sunset clause is proposed, expiring the law after July 31, 2015 if the Legislature Assembly does not affirmatively act to extend the law before it expires.

2017

Our actuaries determined the costs this bill represents were not quantifiable. They do not anticipate a material impact on statewide premium levels, but noted that rates for the specific first responder rate classifications may increase over time as a result of the expanded coverage. However, there is not enough historical experience to derive estimates as to the extent of any rate increase.

This concludes my testimony and I would be happy to answer any questions you may have.

SB 2256
Attach # 2
01/26/15

SB 2256 - PTSD Coverage for Professional First Responders.

Madame Chair & members of the Human Services Committee, Thank you for allowing me to be here and present this bill for your consideration.

~~Madame Chair~~ I am George Sinner, Senator from District 46 in Fargo. I am a member of the Senate Industry, Business, & Labor Committee. During the interim period of the 63rd legislative assembly, I was honored to be a member of the Workers Compensation Review Committee.

One of the committee's assignments was to review the Performance Evaluation of North Dakota's Workforce Safety & Insurance that examined the calendar years of 2011 through 2013. Sedgwick & Associates of Roseville, California completed the evaluation and is the same company that had previously evaluated WSI in 2010.

You will find in Sedgwick report that Sedgwick examined eight elements of WSI policies and practices. One of the evaluations included "Post-Traumatic Stress Disorders. Recommendations were made pertaining to each element with cost considerations.

I have included a copy of the pages from the report that deal with Section Eight - the evaluation of Post-Traumatic Stress Disorders. Sedgwick notes in this section that North Dakota was one of only 15 states with no coverage for this disorder.

A full copy of the entire report can be found at the following web location:

http://www.legis.nd.gov/files/committees/63-2013nma/appendices/15_5159_03000appendixd.pdf?20150124132356

Madam Chair, in responding to the Sedgwick Report, WSI presented this identical bill to the interim review committee for approval. You can

review the minutes of the committees meeting for the discussion on that bill.

This bill:

- Provides PTSD coverage for “first responders” defined as full-time paid firefighter, full-time paid law enforcement officer, or full-time paid emergency medical services personnel.
- Defines the employment events that must take place in order for the claimant to receive benefits.
- Limits benefits to not exceed 26 weeks or \$15,000.

I have also included some reference materials about Post-Traumatic Stress Disorder for your reference.

Madam Chair, I ask that you give this bill a thorough vetting and then come out with a do-pass recommendation.

Thank you. I will be happy to answer any questions.

Attachments:

1. Sedgwick Report Cover Letter
2. Sedgwick Report Element Eight pages 142-155
3. Sedgwick Report Exhibits 8.1 to 8.13
4. Workers’ Compensation Review Committee Minutes Oct. 21, 2014
5. USA Today – Stress takes heavy toll on firefighters
6. Workers’ Compensation Institute – “Minnesota Tackles PTSD”



Attach # 3
SB 2256
01/26/15

2014

Performance Evaluation of North Dakota Workforce Safety and Insurance



September 3, 2014



3.2

September 3, 2014

Governor of North Dakota
The Legislative Assembly
Chairman of the Workforce Safety and Insurance Board of Directors
Chairman of the Workforce Safety and Insurance Board Audit Committee
Executive Director of Workforce Safety and Insurance

We are pleased to submit this report summarizing the results of the 2014 Performance Evaluation of Workforce Safety and Insurance (WSI). The Performance Evaluation primarily covers activities at WSI during Calendar Years 2011 through 2013, although some components of the evaluation cover a broader time span.

One purpose of this Performance Evaluation was to assess certain aspects of WSI and to provide recommendations for improvement. Another purpose was to evaluate certain North Dakota statutory provisions and administrative practices as compared to similar provisions and practices that we observe around the country and provide recommendations. Various financial impact estimates are made pertaining to Element Eight – the evaluation of Post-Traumatic Stress Disorder.

The Performance Evaluation features eight Elements including:

- Independent Medical Evaluations
- Fraud
- Certain Aspects of Claim Processes
- Vocational Rehabilitation
- Designated Medical Provider programs
- Narcotic Utilization
- Cost of Living Adjustments, and
- Post-Traumatic Stress Disorders.

This performance evaluation also included a review of a limited number of recommendations from the 2010 performance evaluation. Recommendations in this evaluation were made pertaining to each of the Elements where we felt opportunities existed to improve performance, establish greater cost efficiencies, or reasonably modify statutory provisions. Forty recommendations were made.

The report consists of an executive summary, sections pertaining to each Element, recommendations, WSI responses to the recommendations, and various supporting exhibits. In some instances, we added a reply to follow up on a WSI response to a recommendation.

We want to thank all those at WSI who assisted us in the Performance Evaluation process with a special note of thanks to the Internal Audit staff.

Sedgwick CMS – Risk Services Practice

Roseville, California

Element Eight: Review of Providing Coverage for Post-Traumatic Stress Disorder

Introduction

In this element, the State of North Dakota is interested in:

- An evaluation of post-traumatic stress disorder (PTSD) in five comparable workers' compensation systems to include an identification of any trends in coverage along with eligibility requirements for receiving coverage in each of the systems selected
- A determination of the economic impact on WSI of providing coverage for post-traumatic stress disorder for any type of compensable injury
- The pros and cons of providing post-traumatic stress disorder coverage and the various conditions associated with eligibility requirements

Within the original request for proposal (RFP) on this project, there had been a provision to suggesting that if national data were available relating to coverage of PTSD that we provide that information. National data in the workers' compensation community is not available nationally and is also difficult to obtain on a state by state basis. The RFP further suggested that if national data were not available that we work with the Evaluation Coordinator to estimate a cost to survey states so national trends could be identified.

Since the issuance of the proposal, we have worked with the Evaluation Coordinator and indirectly with the workers' compensation committee of the legislature to scale this element to specific types of PTSD circumstances and to forecast potential costs in keeping with those criteria.

Background

To achieve the above objectives, the following activities were undertaken:

- We reviewed the relevant sections of the North Dakota Century Code along with WSI's policies and procedures related to circumstances under which a claim for coverage of psychiatric condition is considered work-related
- We reviewed the current definition of PTSD as contained in the DSM-V (the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders) published by the American Psychiatric Association. This latest revision occurred in 2013.
- We reviewed a 2014 publication jointly compiled by the Workers Compensation Research Institute (WCRI) and the International Association of Industrial Accident Boards and Commissions (IAIABC) to gain a general understanding of state laws and whether mental injury claims are covered, not covered or if there may be limitations on coverage

- We selected five states to review in the context of this project (the five states selected are states which allow coverage under more narrow definitions of circumstances leading to a covered event)
- We reviewed statutory language in various jurisdictions to get a flavor for the variety of coverage afforded
- We reviewed all cases in North Dakota over the performance evaluation period where the nature of injury was designated by WSI as mental stress
- We reviewed PTSD literature specifically relating to the rate of PTSD among first responders, the percentage of crime victims who develop PTSD, and PTSD treatment costs
- We gathered statistics related to violent crime rates by type of crime nationally and in North Dakota, workplace violent crimes rates by occupation, and employment by occupation both nationally and in North Dakota.
- We developed different forecasting scenarios to assess the economic impact of any changes the legislature may decide to make to cover PTSD claims arising out of workplace experiences
- We obtained information from state subject matter experts in our own company to address particulars of the laws governing PTSD coverage
- We limited our analysis to the three following scenarios: a.) first responders; b.) victims of violent crimes where no physical injury is involved; and, c.) witnesses to sudden and extraordinary events in workplace environments
- We reviewed case law in North Dakota and other jurisdictions
- We read proposed legislation that the North Dakota legislature has considered during both the 2011 and 2013 sessions relating to PTSD (see proposed SB 2093 and HB 1427 from the 2011 session, and HB 1376 from 2013)

Findings

We include as Exhibit 8.1 the definition of Post-Traumatic Stress Disorder, a disorder first recognized in 1980, as it appears in the DSM-V published by the American Psychiatric Association. In summary, the definition spells out the kinds of stressors that one must experience for a diagnosis of PTSD to apply. Symptom clusters (intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and activity) are next discussed. Other attributes of the diagnosis include duration of symptoms, functioning and exclusions. One interesting feature of the diagnosis for consideration in statutory language and management by WSI is the duration component. Specifically, factors leading to a PTSD diagnosis must be present for a period of at least a month. As such, statutory language regarding the filing of a claim for benefits would have to take into account the minimum of a one-month lag time to satisfy diagnostic criteria. (See New Recommendation 8.1)

WSI's current procedure for paying for workplace psychiatric injuries is limited to cases that arise from physical injuries. The policy states in part, "NDCC 65-01-02 (10) (b) (10) and 65-01-02 (10) (a) (6) outline WSI responsibility in adjudicating mental or psychological conditions. A mental injury arising from a mental stimulus is not a compensable injury. A mental or psychological condition caused by a physical

injury may be compensable if the physical injury is determined to be 50% of the cause of the condition with reasonable medical certainty and the condition did not pre-exist the work injury.” (See New Recommendation 8.2)

For a national overview of how each state chooses to cover (or not) workplace mental injuries, we provide Table 8.1. This table shows states according to specific groupings. Those groupings are:

- states that do not cover mental injuries where there is no physical injury
- states that do not cover mental injuries where is no physical injury except in very specific exceptions
- states that do cover mental injuries but in a somewhat narrow manner
- states that cover mental injuries with fewer restrictions on coverage (note that Minnesota is the most recent addition to this group of states allowing PTSD claims for injuries occurring on or after 10/1/13)

You will see in the table below that there are 15 states that don’t allow coverage, two that do under very specific circumstances, seven that allow coverage but with certain restrictions that are less restrictive than the second group, and 26 that allow coverage more broadly.

Table 8.1: Coverage of Mental Injury by State where there is no physical injury

Coverage Grouping	States
No allowance	AL, CT, FL, GA, ID, IN, KS, KY, MY, ND, OH, SD, TX, WV, WY
No allowance except in violent crimes	AR, OK
Allowance with certain restrictions	AK, CO, MD, MI, NE, NH, UT
Broader coverage allowed	AZ, CA, DE, HI, IL, IA, LA, ME, MA, MN, MS, MO, NV, NJ, NM, NY, NC,, OR, PA, RI, SC, TN, VT, VA, WA, WI

As mentioned in the Introduction of this Element, we have agreed to limit our analysis of potential PTSD coverage to specific accident types. Those three accident types include the following circumstances:

- First responders
- Victims of violent crimes
- Exposure to unusual and extraordinary events

States that meet these criteria in one way or another include Arkansas, Colorado, Maryland, Nebraska and Oklahoma. We next provide background on those states.

First Responders (Nebraska):

In 2010, Nebraska passed legislation (Legislative Bill 780) allowing for mental injury claims for first responders. First responders are defined in the legislation in a manner that is similar to language considered by the North Dakota legislature in HB 1376 during the 2013 session. Specifically, the Nebraska legislation allows claims for mental injury to be submitted only by police and fire personnel as well as emergency medical staff.

Language in LB 780 allows for coverage for first responders in those situations that are “extraordinary and unusual in comparison to the normal conditions of the particular employment.” Viewed in the context of exposure to unusual and extraordinary events generally, we view first responder claims as a sub-set of the broader class of injuries that could fall within that definition.

When Nebraska’s legislation was enacted in 2010 it included a sunset provision in 2014. The legislature wanted to determine how this law might impact costs in the intervening years. By 2013, the legislature decided to remove the sunset provision because the frequency of claims had been so low that the cost impact had proven negligible. We were not able to obtain any hard data on claim cost but anecdotal information suggested less than ten claims of this type had been filed within the first three years following enactment. One case apparently cost about \$85,000 to resolve but most cases resolved for much more modest amounts.

In short, the Nebraska law is of recent vintage, and claim frequency and cost have been low. That state chose to limit coverage to certain occupations, notably those who are first on scene and who are exposed to accidents that may be categorized as horrific on a repetitive basis. The legislature chose not to include healthcare workers who work in trauma settings even though their exposure could be just as frequent.

Victims of Violent Crime (Arkansas and Oklahoma):

Arkansas and Oklahoma have statutes that allow for mental injury claims but only in circumstances tied to violent crimes. The Arkansas statute (A.C.A Section 11-9-113) states that no mental injury is allowed unless there is a physical injury and the mental illness arises from that injury. The only exception to that rule is the “physical limitation shall not apply to any victim of a crime of violence.”

Oklahoma’s statute (Title 85 – 3, paragraph 13, c) states that “Injury or personal injury shall not include mental injury that is unaccompanied by physical injury, except in the case of rape which arises out of and in the course of employment.”

Arkansas imposes further limitations on coverage of mental injury claims that do not involve physical injury in this fashion:

- Mental injury disability benefits are limited to 26 weeks
- Death benefits may only be claimed if the death occurs within one year of the original injury

SB 2093 that was considered by the North Dakota legislature in 2011 applies to this category of coverage. Language in that bill sought to limit both the types of claims that might be covered due to violent crime and included duration and cost caps, as well.

We do not have specific mental injury costs from either Arkansas or Oklahoma on claims arising out of these kinds of workplace exposures.

Unusual and Extraordinary Events (Colorado and Maryland):

Colorado and Maryland have statutes that allow for mental injury claims that arise from unusual and extraordinary events in the workplace. In Colorado, injuries may be covered when no physical injury has occurred but instead “consists of a psychologically traumatic event that is generally outside of a worker’s usual experience and would evoke significant symptoms of distress in a worker in similar circumstances.”

In Maryland, the court opined in Belcher v. T. Rowe Price that a mental injury could occur as a consequence of an unexpected and unforeseen event that occurs suddenly or violently. In this particular case, Ms. Belcher was seated at her desk on the top floor of an office building adjacent to a construction site. A 3-ton steel beam attached to a crane broke loose and crashed through the roof and landed about five feet from Ms. Belcher. Her claim of PTSD was found to be compensable. In Maryland, an individual may also claim PTSD as an occupational disease claim, something that occurred in Means v. Baltimore County. Means was a paramedic exposed to repeated, horrific accident scenes and over time she developed PTSD. The court commented that occupational disease cases by their nature occur slowly and insidiously. The court felt Means met that test.

In a manner akin to what we observed in Arkansas, the state of Colorado imposes a limitation on the amount of disability benefits a person may receive for a claim of mental injury. That limit is twelve weeks of disability benefits. That limit applies to the combination of temporary total and permanent disability. Note that these limits do not apply if the mental injury is a consequence of a physical injury. For purely mental injury claims, there is no limit on duration of medical treatment.

We do not have any objective financial information on mental injury claims either in Colorado or Maryland. In discussing claims of this type with claims professionals who work in those states, they have indicated that claims of this type are rare. One mentioned that she had personally managed only one accepted claim of this type and it was for a lineman who had witnessed a co-worker get electrocuted. Such a claim would be in keeping with the standard established in Belcher.

Economic impact on Any Type of Compensable Injury:

North Dakota already has in place statutory language that permits coverage for mental injury claims if they arise out of a physical injury. Hypothetically, we consider the cases of severe burn victims or amputees who continue to be psychologically impaired and in need of treatment due to the consequences of their injuries. WSI already pays benefits in such cases as long as the injured worker

meets the statutory requirement that, “a mental or psychological condition [is] caused by a physical injury, but only when the physical injury is determined with reasonable medical certainty to be at least fifty percent the cause of the condition as compared with all other contributing causes combined, and only when the condition did not pre-exist the injury.” See NDCC Section 65-01-02 (10)(a)(6).

When we consider the “impact on any type of compensable injury,” we provide that forecast elsewhere in this section. Having said that, we did review the decision of a North Dakota Administrative Law Judge in a case involving a truck driver who sustained relatively minor injuries in a traffic accident in which the other driver was killed. The truck driver was subsequently diagnosed with PTSD but his psychological injury arose out of the experience of the accident rather than his physical injuries. As a consequence, the ALJ ruled that no compensable mental injury had occurred. Under a workers’ compensation statute that recognizes mental injuries without corresponding physical injuries such cases could well prove to be compensable. It is cases like this one along with first responders and victims of violent crimes that we consider in our financial forecasts.

Regarding the economic impact of expanding workers’ compensation coverage of PTSD, we have developed projected medical and indemnity costs related to covering first responders, victims of violent crime (in which no physical harm occurs), and those who are exposed to unusual and extraordinary events. Our findings are summarized in Exhibit 8.2 under a variety of scenarios. We have also provided projections both including and excluding correctional officers, as it is unclear if they would be considered to be first responders.

Methods:

We separately calculated the impact of extending North Dakota workers’ compensation coverage to PTSD claims for first responders, victims of violent crime with no bodily injury, and witnesses of traumatic events. For each of these categories we used a 2-step approach. First we estimated the number of expected PTSD claims, and second we estimated the cost per claim. The total cost is then the product of the number of claims times the cost per claim. Using high and low projections of both claim counts and costs per claim we estimated a range of costs.

First Responders:

The following is a description of the methods we used to project medical and indemnity claims costs for first responders.

1. Projected Number of Claims: We produced two estimates of the number of claims. One estimate is based on the experience of other states, and the other is based on academic literature regarding levels of PTSD in first responders.

- a. Experience of Other States: We identified three states (Nebraska, Missouri, and Arkansas) that have some coverage for PTSD experienced by first responders. Using data from the U.S. Bureau of Labor and Statistics, we first identified the number of first responders in each state (Exhibit 8.9). We then calculated the frequency of PTSD claims by dividing the actual number of PTSD claims experienced in each state to the number of first responders in the state in (Exhibit 8.8). Based on the experience in these three states we selected an annual PTSD frequency of 0.00025 PTSD claims per first responder.

One of the weaknesses of this approach is that the definition of PTSD and the employees covered for PTSD are not identical among the three states we looked into, nor would they be identical to what may be implemented in North Dakota. One of the advantages of this approach, however, is that it is based on workers' compensation claims as opposed to the incidence of PTSD. It appears to us that workers' compensation PTSD claim reporting is below the projected incidence of PTSD.

- b. Academic Literature: There are many studies of PTSD, including ones that investigate the frequency of PTSD for police officers, firefighters, and emergency medical personnel. Unfortunately the studies are often based on small sample sizes and at times PTSD experience in foreign countries. Partly for this reason the literature points to a wide range of PTSD incidence.
 - i. Snapshot of Incidence of PTSD (Exhibit 8.6): The top part of the chart on Exhibit 8.5 shows the low and high range of the incidence of PTSD at a given point in time as described in the literature. Based on this range we selected a specific incidence rate that is between the low and high end of the range. By "snapshot" we mean the percentage of a population that would be identified as having PTSD if that population were surveyed all at once. Given that people often experience PTSD for extended periods of time, this snapshot is very different from the number of people in the population who develop PTSD on an annual basis.
 - ii. Conversion from Snapshot to Annual Incidence of "New" PTSD: In order to calculate this conversion, it's important to know how long PTSD is experienced. We used data from the National Comorbidity Survey (NCS) to estimate the percentage of PTSDs that last 3 months, 12 months, or longer ("lifetime"). This, combined with the average tenure of a first responder, tells us how many times a specific employee with PTSD would be counted in annual snapshots of PTSD. For example, if someone had PTSD for 3 months, then there would be a 25% chance that their PTSD would be included in an annual survey of PTSDs of a given population. On the other hand, if someone had PTSD for 10 years, then they would be included in 10 annual snapshot surveys. Based on this

information we calculated that a first responder with PTSD is likely to be counted 6.33 times in annual snapshots (Exhibit 8.7). This means that the frequency of new PTSD incidences is equal to the snapshot frequency divided by 6.33. Thus the conversion factor from snapshot frequency to annual "new" frequency is 0.16 (=1/6.33).

- iii. Annual Incidence of PTSD (Exhibit 8.6): We calculated the annual incidence of PTSD by multiplying the snapshot frequency of PTSD (step b-i) by the conversion factor of 0.16 (step b-ii).
- iv. Projected Number of Claims (Exhibit 8.5): This equals the number of first responders times the Annual incidence of PTSD.

One of the weaknesses of this approach is that it only identified the projected incidence of PTSD, and this can be very different from the number of PTSD claims that are filed. As we have discussed earlier, the number of PTSD claims filed in other states is lower than the projected incidence of PTSD. If this also holds true in North Dakota, then this method will substantially overestimate the number of PTSD claims that are filed.

- 2. Average Claim Size: We looked at the experience in other states as well as a "bottom up" approach in order to estimate the average size of a PTSD claim.
 - a. Experience of Other States: the average size of PTSD claims in Missouri and Arkansas has been under \$6,000 (Exhibit 8.8). This is based on legislative analysis performed by Nebraska when they were considering covering PTSD in workers' compensation. While we do not have the exact experience for Nebraska, it is our understanding that of the six claims they have experienced, five were minor and one was larger. Based on this information from other states we selected an average claim size of \$5,000.
 - b. "Bottom Up" Approach (Exhibit 8.4): This approach involves separately estimating the various components of workers' compensation benefits for PTSD claims. Temporary disability benefits are based on the maximum weekly benefit times the number of weeks of PTSD. This assumes that employees with PTSD are not able to perform their normal job functions. Based on the very low cost per PTSD claim in Missouri and Arkansas, it seems that in many cases those who file PTSD workers' compensation claims continue to work or are able to get back to their regular job duties rather quickly without incurring a lot of temporary disability. For this reason we ultimately developed projected annual costs both including and excluding temporary disability benefits. We have assumed that there will be no permanent disability benefits for PTSD claims, and annual medical costs are based on a recent study comparing the cost of therapy and drug treatment for PTSD (See footnote 3 at Exhibit 8.4 for the complete reference).

3. Average Annual Cost: This is calculated based on the projected number of claims (step #1) times the projected average cost per claim (step #2). We developed a range of indications based on the different projections of claim counts and average claim size. This produces a wide range, primarily because the workers' compensation claims experience in Missouri and Arkansas is below what we would have expected if everyone who had an incidence of PTSD filed a workers' compensation claims. So the estimates that utilize actual workers' compensation experience in other states are below the estimates that are based on the estimated incidence of PTSD.

Witnesses to Sudden and Extraordinary Events in Workplace Environments

The following is a description of the methods we used to project medical and indemnity claims costs for people who experience traumatic events at the workplace.

1. Projected Number of Claims: In order to project the number of claims in this category, we have assumed that the extraordinary events are primarily based on witnessing violent crime at the workplace. We first projected the number of workplace violent crimes and assumed one witness per event. We then projected the number of PTSD claims based on the number of projected witnesses times a probability of a witness developing PTSD.
 - a. Projected Number of Workplace Violent Crimes: In order to project the number of workplace violent crimes in North Dakota, we started with national statistics on violent crime at the workplace by job classification (U.S. Department of Justice) and applied those rates to North Dakota's distribution of employees by job classification (U.S. Bureau of Labor and Statistics, Exhibit 8.11). We excluded law enforcement since PTSD from first responders is already considered separately, and we did not want to double-count this exposure.

Next we adjusted for the fact that North Dakota tends to have a lower rate of violent crime than the U.S. in general (Exhibit 8.13). Based on data from the Uniform Crime Reporting Statistics, we found that between 2010 and 2012 North Dakota had a violent crime rate of 240.9 crimes per 100,000 of population. This is about 39% lower than the average U.S. violent crime rate of 392.8. As a result we reduced the estimate of workplace violent crimes by 39%, since those estimates were based on U.S. crime rates (Exhibit 8.11).

One of the weaknesses of this approach is that it assumes that PTSD from witnessing traumatic events at the workplace is only from violent crime. While this is a very imperfect assumption, it is the best we could reasonably assume given the information available.

- b. Number of Witnesses: We assumed that there is roughly one witness per workplace violent crime. This is a very imperfect projection, but it is the most reasonable assumption we could arrive at given the lack of available information. In general we assume that a lot of workplace violent crime occurs when there are no witnesses, but there are also events (such as those involving active shooters) in which there are many witnesses to a single event. Hence we arrived at the assumption of an average of one witness per crime.
 - c. Number of PTSD Claims: We have assumed that the percentage of witnesses of violent crime who develop PTSD is 8% and 24% at the low and high end, respectively (Exhibit 8.10). The literature suggests that somewhere between 15% and 24% of people who experience serious crime develop PTSD. On the low end we adjusted the 15% to 8%, under the assumption that witnesses are less likely to experience PTSD than direct victims. We did not adjust the high end estimate.
2. Average Claim Size: This is based on the exact same method as of first responders.
 3. Average Annual Cost: This is calculated based on the projected number of claims (step #1) times the projected average cost per claim (step #2). We developed a range of indications based on the different projections of claim counts and average claim size.

Victims of Serious Workplace Crimes Who Do Not Experience Physical Harm:

The method we used to project medical and indemnity claims costs for people who are victims of serious workplace crime but do not have physical injuries is identical to the method used to estimate the costs of those who experience workplace trauma but with two exceptions. The results are calculated in Exhibit 8.10, and the two exceptions are detailed as follows:

1. Violent Crimes Not Involving Physical Harm: Once we have calculated the number of workplace violent crimes, we needed to consider the percentage of those crimes that do not result in injuries to the victim. We looked at the violent crime rates by category and judgmentally assigned a probability that the crime would result in physical harm (Exhibit 8.13). We assumed that 100% of murder, manslaughter and rape result in physical harm. By definition 100% of assault does not result in physical harm, since assault is defined as creating apprehension of harm without actually creating that physical harm. We assumed that 50% of robberies result in physical harm. Since over 75% of violent crime in North Dakota has historically been categorized as aggravated assault, the assumption regarding assault was most influential to our results. Overall we assumed that about 80% of violent crime does not result in physical harm.

- 2. Witnesses: Since this section deals directly with victims of crime, we did not have to assume a specific ratio of crime victims per crime.

Assumptions & Limitations:

Our approach to estimating the economic impact of PTSD on workers' compensation in North Dakota has several key assumptions and limitations, including the following:

- 1. We have only estimated the impact on medical and indemnity costs. We have not estimated the impact on loss adjustment or other expenses.
- 2. We have assumed that the expansion of benefits would only affect PTSD claims and would not increase utilization of any other types of claims. Some states assume that an increase in benefits, particularly indemnity benefits, will result not only in an increased cost per claim but also an increase in claim frequency.
- 3. To the extent possible we have utilized workers' compensation PTSD experience in other states. However, there may be several differences between those states and North Dakota, including the workers' compensation environment, the economic environment, the definition of PTSD, and the job classes that may file workers' compensation claims for PTSD.
- 4. There is no definitive literature regarding the probability that people who experience traumatic events or are victims of crime will develop PTSD. We had to utilize studies that included small sample sizes and populations in environments very different from those in North Dakota in order to estimate some of these key assumptions. The applicability of these assumptions is a major limitation of our results.
- 5. It is unclear how many people who would be eligible to file workers' compensation PTSD claims will actually do so. Workers' compensation PTSD data from other states suggests that a significant percentage of eligible people do not file workers' compensation PTSD claims.
- 6. We have used violent crime as a proxy for extraordinary events that could induce PTSD among witnesses. It is likely that there are other types of events other than violent crime that could trigger PTSD, but our best proxy for these extraordinary events is violent crime.

General Factors to Consider:

Post-traumatic stress disorder was not recognized as a disorder by the American Psychiatric Association until 1980. Arguably many Vietnam and other earlier war veterans experienced PTSD without the diagnosis. Similarly, we can be sure that before the diagnosis appeared that workers encountered various workplace situations where a claim of PTSD could have been asserted.

In the introduction, we referenced a review of claims submitted to WSI during the performance evaluation where the nature of injury was mental stress. There were ten such claims over that three-year window (2011 – 2013). Of the ten, only two of the cases appeared to have met the qualifying circumstances we are considering for potential coverage under the workers' compensation system. One was a first responder case where the employee had been exposed to repeated death scenes. The other

was a police officer involved in multiple police officer shootings where deaths had occurred. The other eight chiefly pertained to employer – employee relations issues that were either specific or cumulative in nature.

When Minnesota enacted a law in 2013 allowing PTSD claims, it appeared that the passage of the law came about at least in part because of a school shooting that occurred in that state in 2005. A teacher at the school filed a claim for PTSD, which was denied, as no law existed in Minnesota to allow such a claim at that time. Estimates, on the potential cost of this new law, range from .5% to 4% of premium. (As reported on WSI’s June 2013 Operating Report, premium earned for FY 2013 amounted to about \$334 million before accounting for premium discounts and ceded reinsurance premiums. Net premium earned amounted to about \$310 million. Were we to apply a similar financial estimate from the state of Minnesota to North Dakota and we base our estimate on net premium earned, then a premium increase of between approximately \$1.55 and \$12.4 million could be expected in North Dakota. See also Exhibit 8.2 where we project a mid-range cost of PTSD at slightly more than \$4.5 million.)

The Minnesota statute is also written to require that the law only applies to workers who experienced (a) traumatic event(s) on or after 10/1/13; that a diagnosis of PTSD is required that is consistent with the diagnostic requirements as spelled out by the DSM-V; and, that the diagnosis must be made by a licensed psychologist or psychiatrist.

Newtown, CT is the town where school shootings in late-2012 left 26 people dead, including 20 young school children. Connecticut does not cover mental injuries in the absence of a physical injury so claims made by safety officers or school teachers/administrators that experienced these events are not covered. At this writing, Connecticut was considering passage of a law that would allow for PTSD claims given the horrific nature of this event.

Common in the statutory schemes of various state’s workers compensation systems is language akin to that found in North Dakota’s proposed 2013 HB 1376; namely, that, “a mental injury arising from mental stimulus does not include a mental injury that results from an event or series of events that are incidental to normal employer and employee relations, including a personnel action by the employer such as a disciplinary action, work evaluation, transfer, promotion, demotion, salary review, or termination.”

We reviewed various decisions related to coverage for mental injury claims in Illinois starting with a case called Pathfinder Company v. Industrial Commission. In that case, a worker was instructing a co-worker how to operate a machine and during the training the co-worker’s hand was severed. The instructor reached into the machine, retrieved the hand, promptly fainted and subsequently experienced psychological injuries due to the shock of the event. The court ruled the psychological injury was compensable. The courts in Illinois have over time ruled that some mental injury claims are not compensable including ones involving cumulative workplace stressors such as verbal assaults or poor working conditions.

Pros and Cons:

3.16

The third part of this element asks us to consider the pros and cons of providing post-traumatic stress disorder coverage and the various conditions associated with eligibility requirements. We cover the cons first:

- Uncertainty exists as to the financial impact of covering this class of injuries
- In the minds of some, too much subjectivity may exist in making a diagnosis of PTSD for there to be a high degree of confidence in diagnostic accuracy
- A potential window may open for employees who now have no mental health coverage and their assertion of work-related PTSD could provide that coverage
- The workers' compensation system functions just fine as it is with respect to claims of mental injury, so why make a change
- About 30% of the states afford no mental injury coverage at all unless there is a physical injury that leads to the psychological condition

The pros:

- Employees have a no-fault way to receive benefits for workplace traumatic experiences as may be defined by statute
- Benefits can be statutorily structured to cure or relieve PTSD injuries to include certain cost controls
- It is reasonable to provide care for people if legitimately injured on the job whether the injury is physical or mental
- Workers' compensation systems change over time to recognize new ideas and improve benefits
- About 70% of the states afford some mental injury coverage ranging from very specific to broader circumstances

No doubt a broader list of pros and cons could be compiled.

One of the items we became aware of in our research of this project related to a claim of mental injury following a bank robbery that occurred in Gilby, ND. An editorial in the Fargo Forum took issue with the lack of coverage afforded to a bank employee who suffered mental trauma as a consequence of this experience. The Forum editorial also mentioned that the injured employee's medical costs amounted to about \$1,000. Given what we have learned in our research of PTSD, we're not sure that her injuries would have been covered if a PTSD law existed because the worker may not have had symptoms long enough to support a PTSD diagnosis.

But the case is illustrative for a different reason. The Forum editorial indicated that the cost of treatment amounted to only about \$1,000. While this may not be a typical experience for traumatized workers, we think it somewhat more likely that workers who have a one-time experience with a violent or horrific experience will have less expensive and less frequent claims than those workers (e.g., long-

time first responders) who may legitimately assert that they have been repeatedly traumatized by gruesome workplace events. For this latter group, the need to work in a new job may be a more likely consequence. As such, mental injury claims for this group could be more expensive given the greater likelihood that vocational rehabilitation services would be required.

Following traumatic events in the workplace, it is not uncommon for employers to provide crisis management professionals through employee assistance programs to address mental healthcare needs. Whether North Dakota chooses to enact a PTSD law or not, we assume that employers will continue to provide such services.

Summary Comments:

In considering what kind of recommendation to make related to coverage of PTSD in North Dakota, we focused our analysis on three case types (first responders, victims of violent crimes and those who have experienced unusual and extraordinary events). We have also found that in the states of Colorado and Arkansas benefit caps exist. And when we looked at Nebraska, we found that they introduced a bill for first responders in 2010, that this bill had a sunset provision, and that the frequency and cost of injuries related to the bill after roughly three years of experience were negligible.

Employees go to work as they are. Some have pre-existing conditions that influence claim decisions when they have workplace injuries. Some are more physically capable, some are more mentally astute, and some have greater coping mechanisms than their peers. When a worker is injured in the workplace, it is often as a consequence of his/her own failure to apply safe work methods. But coverage is not denied for that reason.

In most of the case circumstances we have referenced above, coverage is afforded for injuries to the psyche when the event or events are so out of the ordinary that the development of a psychological condition (PTSD) is viewed as a real and understandable consequence. Examples we referenced included witnessing a co-worker lose her hand, seeing a co-worker electrocuted, and the cumulative effects of psychological trauma for a first responder in Maryland.

We also provided in Exhibit 8.1 the current definition of PTSD according to the American Psychiatric Association, which requires a fairly rigid set of criteria be met to support the diagnosis. As well, certain exclusions apply. And a patient must have symptoms for at least a month to support the existence of PTSD in that individual. (See Recommendation 8.3)

In the event that WSI submits legislation that passes relating to Recommendation 8.3, then the legislature may also be required to amend the Century Code to address providers who are included in the Designated Medical Provider program. (See Recommendations 8.4, in that context.)

Exhibit 8.1: Definition of Post-Traumatic Stress Disorder

DSM-5 Criteria for PTSD

In 2013, the American Psychiatric Association revised the PTSD diagnostic criteria in the fifth edition of its Diagnostic and Statistical Manual of Mental Disorders (DSM-5) (1). The diagnostic criteria are specified below.

The criteria below are specific to adults, adolescents, and children older than six years. Diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms; the seventh assesses functioning; and, the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

Two specifications are noted including delayed expression and a dissociative subtype of PTSD, the latter of which is new to DSM-5. In both specifications, the full diagnostic criteria for PTSD must be met for application to be warranted.

Criterion A: stressor

The person was exposed to: death, threatened death, actual or threatened serious injury, or actual or threatened sexual violence, as follows: **(one required)**

1. Direct exposure.
2. Witnessing, in person.
3. Indirectly, by learning that a close relative or close friend was exposed to trauma. If the event involved actual or threatened death, it must have been violent or accidental.
4. Repeated or extreme indirect exposure to aversive details of the event(s), usually in the course of professional duties (e.g., first responders, collecting body parts; professionals repeatedly exposed to details of child abuse). This does not include indirect non-professional exposure through electronic media, television, movies, or pictures.

Criterion B: intrusion symptoms

The traumatic event is persistently re-experienced in the following way(s): **(one required)**

1. Recurrent, involuntary, and intrusive memories. Note: Children older than six may express this symptom in repetitive play.
2. Traumatic nightmares. Note: Children may have frightening dreams without content related to the trauma(s).
3. Dissociative reactions (e.g., flashbacks), which may occur on a continuum from brief episodes to complete loss of consciousness. Note: Children may reenact the event in play.
4. Intense or prolonged distress after exposure to traumatic reminders.
5. Marked physiologic reactivity after exposure to trauma-related stimuli.

Criterion C: avoidance

Persistent effortful avoidance of distressing trauma-related stimuli after the event: **(one required)**

1. Trauma-related thoughts or feelings.
2. Trauma-related external reminders (e.g., people, places, conversations, activities, objects, or situations).

Criterion D: negative alterations in cognitions and mood

Negative alterations in cognitions and mood that began or worsened after the traumatic event: **(two required)**

1. Inability to recall key features of the traumatic event (usually dissociative amnesia; not due to head injury, alcohol, or drugs).
2. Persistent (and often distorted) negative beliefs and expectations about oneself or the world (e.g., "I am bad," "The world is completely dangerous").
3. Persistent distorted blame of self or others for causing the traumatic event or for resulting consequences.
4. Persistent negative trauma-related emotions (e.g., fear, horror, anger, guilt, or shame).
5. Markedly diminished interest in (pre-traumatic) significant activities.
6. Feeling alienated from others (e.g., detachment or estrangement).
7. Constricted affect: persistent inability to experience positive emotions.

Criterion E: alterations in arousal and reactivity

Trauma-related alterations in arousal and reactivity that began or worsened after the traumatic event: **(two required)**

1. Irritable or aggressive behavior
2. Self-destructive or reckless behavior
3. Hyper-vigilance
4. Exaggerated startle response
5. Problems in concentration
6. Sleep disturbance

Criterion F: duration

Symptoms referenced in Criteria B - E must persist for more than one month.

Criterion G: functional significance

Significant symptom-related distress or functional impairment must exist (e.g., social or occupational settings).

Criterion H: exclusion

Disturbance is not due to medication, substance use, or other illness.

Specify if: With dissociative symptoms

In addition to meeting criteria for diagnosis, an individual experiences high levels of either of the following in reaction to trauma-related stimuli:

Depersonalization: experience of being an outside observer of or detached from oneself (e.g., feeling as if "this is not happening to me" or one were in a dream).

De-realization: experience of unreality, distance, or distortion (e.g., "things are not real").

Specify if: With delayed expression

Full diagnosis is not met until at least six months after the trauma(s), although onset of symptoms may occur immediately.

Exhibit 8.2: North Dakota: Cost of Post-Traumatic Stress

Protective & Emergency Medical, Workplace Violence Victims & Witnesses

Projected Cost

	Protective All ¹	Protective ex Correctional ¹	Workplace Violent Crime Victims ²	Workplace Violent Crime Witnesses ³	Total All	Total ex Correctional
Low	5,113	3,463	689,934	461,056	1,156,103	1,154,453
Low-Mid	12,577	8,518	1,103,895	1,383,168	2,499,639	2,495,580
Mid	103,375	70,012	2,206,410	2,268,395	4,578,180	4,544,817
Mid-High	312,560	206,960	13,950,473	9,322,550	23,585,583	23,479,983
High	6,319,963	4,184,731	22,320,756	27,967,651	56,608,371	54,473,139

¹ Exhibit 8.3

² Exhibit 8.10

³ Same as cost of victims. Assumes on average one witness per crime.

Exhibit 8.3: North Dakota: Cost of Post-Traumatic Stress

Protective & Emergency Medical

Projected Cost

	Police	Fire	EMT	Correctional	Other	Total
<u># of PTSD Occurrences¹</u>						
Based on Literature: Selected	23	7	12	21	na	63
Based on other States	0.4	0.1	0.2	0.3	na	1.0
<u>Average Cost per Claim</u>						
Based on other States ²	5,000	5,000	5,000	5,000	5,000	5,000
Medical Only ³	12,300	12,300	12,300	12,300	12,300	12,300
"Worst Case" ³	101,100	101,100	101,100	101,100	101,100	101,100
<u>Projected Total Cost⁴</u>						
Low	1,813	638	1,013	1,650	na	5,113
Low-Mid	4,459	1,568	2,491	4,059	na	12,577
Mid	36,649	12,890	20,473	33,363	na	103,375
Mid-High	116,000	32,640	58,320	105,600	na	312,560
High	2,345,520	659,981	1,179,230	2,135,232	na	6,319,963

¹ Exhibit 8.5

² Exhibit 8.8

³ Exhibit 8.4

⁴ Low = Other states occurrence x other state cost per claim
 Low-Mid = Other states occurrence x Medical Only cost per claim
 Mid = Other states occurrence x "worst case" cost per claim
 Mid-High = Occurrences in literature x other state cost per claim
 High = Occurrences in literature x "worst case" cost per claim

Exhibit 8.4: North Dakota: Post-Traumatic Stress Claims

3.23

Projected Average Claim Size: "Worst Case"

	3-month	12-month	24+ month	Total
<u>Temporary Disability</u>				
# of weeks	13	52	104	
Weekly benefit ¹	1,120	1,120	1,120	
TD cost	14,560	58,240	116,480	88,800
<u>Permanent Disability²</u>				
	-	-	-	-
<u>Medical</u>				
# of Years of Treatment	0.25	1.00	2.00	
Annual Cost of Treatment ³	8,090	8,090	8,090	
Total Medical	2,023	8,090	16,180	12,300
<u>Total Cost per Claim⁴</u>	16,583	66,330	132,660	101,100
<u>Distribution of PTSD⁵</u>	10%	30%	60%	

¹ Based on current weekly max of \$1,098 increased by 2%

² Assume no Permanent Disability benefits allowed

³ Le QA, Doctor JN, Zoellner LA, Feeny NC (2014) Cost-effectiveness of prolonged exposure therapy versus pharmacotherapy and treatment choice in posttraumatic stress disorder (the Optimizing PTSD Treatment Trial): a doubly randomized preference trial. *J Clin Psychiatry*. 2014 Mar;75(3):222-30
2012 cost of \$7,778 adjusted to 2014 at 2% per year

⁴ Sum of TD, PD, and Medical costs. Total based on weighted average using distribution of PTSD

⁵ Based on distribution of PTSD claims from the National Comorbidity Survey (NCS)

3.24

Exhibit 8.5: North Dakota: Incidence of Post-Traumatic Stress

Protective & Emergency Medical

Projected Number of Annual Incidence

	Police	Fire	EMT	Correctional	Other	Total
<u># of Employees¹</u>	1,450	510	810	1,320	2,910	-
<u>Annual Frequency of PTSD²</u>						
Based on Literature: Low	1.4%	0.8%	0.9%	na		
Based on Literature: High	5.1%	2.6%	3.7%	na		
Based on Literature: Selected	1.6%	1.3%	1.4%	1.6%	na	
Based on other States ³	0.03%	0.03%	0.03%	0.03%	na	
<u>Projected # of Incidences³</u>						
Based on Literature: Low	21	4	7	na	na	
Based on Literature: High	74	13	30	na	na	
Based on Literature: Selected	23	7	12	21	na	63
Based on other States ³	0.4	0.1	0.2	0.3	na	1

¹ Source: Bureau of Labor and Statistics: <http://www.bls.gov/soc/home.htm>

² Sources for frequency of PTSD literature

³ Exhibit 8.8

⁴ Equals # of employees x annual claim frequency

Exhibit 8.6: North Dakota: Incidence of Post-Traumatic Stress

3.25

Protective & Emergency Medical

Claim Frequency Rates per Employee

	Police	Fire	EMT	Correctional	Other
<u>Snapshot Frequency of PTSD¹</u>					
Based on Literature: Low	8.9%	5.0%	5.6%	na	
Based on Literature: High	31.9%	16.3%	23.0%	na	
Based on Literature: Selected	10.0%	8.0%	9.0%	10.0%	na
<u>Annualization Adjustment Factor²</u>					
	0.16	0.16	0.16	0.16	0.16
<u>Annual Frequency of PTSD³</u>					
Based on Literature: Low	1.4%	0.8%	0.9%	na	na
Based on Literature: High	5.1%	2.6%	3.7%	na	na
Based on Literature: Selected	1.6%	1.3%	1.4%	1.6%	na

¹ This represents the frequency in a sampled population at a moment in time

fire lo	Del Ben, K.S., Scotti, J.R., Chen, Y., & Fortson, B.L. (2006). Prevalence of posttraumatic stress disorder symptoms in firefighters. <i>Work and Stress</i> , 20, 37-48.
fire hi	Heinrichs, M., Wagner D., Schoch W., Soravia L.M., Hellhammer DH, Ehlert U (2005). Predicting Posttraumatic stress symptoms from pretraumatic risk factors: a 2-year prospective follow-up study in firefighters. <i>Am. J. Psychiatry</i> , 162(12), 2276-86, 20, 37-48.
pol lo	Asmundson, Gordon J.G. and Stapleton, Jennifer (2008). Associations between dimensions of anxiety sensitivity and PTSD symptom clusters in active-duty police officers. <i>Cognitive Behaviour Therapy</i> Vol. 37, No. 2, 66-75
pol hi	Deborah B. Maia, Metzler T., Nobrega A., Berger W., Mendlowicz M., Coutinho E., Figueira I. (2008). Abnormal serum lipid profile in Brazilian police officers with post-traumatic stress disorder. <i>J Affect Disord.</i> , 107(0): 259-263.
pol other	Violanti JM, Fekedulegn D, Hartley TA, Andrew ME, Charles LE, Mnatsakanova A, Burchfiel CM. (2006) Police trauma and cardiovascular disease: between PTSD symptoms and metabolic syndrome. <i>International Journal of Emergency Mental Health</i> , 8(4), 227-237 association
Amb low	Bennett P, Williams Y, Page N, Hood K, Woollard M, Vetter N. (2005) Associations between organizational and incident factors and emotional distress in emergency ambulance personnel. <i>Br J Clin Psychol.</i> 44(2), 215-226
Amb high	William Berger, Figueira I., Maurat A.M., Bucassio E. P., Vieira I., Jardim S., Coutinho E., Mari J.J., Mendlowicz M. (2007) Partial and full PTSD in Brazilian ambulance workers: Prevalence and impact on health and on quality of life. <i>Journal of Traumatic Stress</i> , Vol. 20 (4), 637-642

² Exhibit 8.7

³ This represents the annual incidence of PTSD

Exhibit 8.7: North Dakota: Post-Traumatic Stress Claims

3.26

Adjustment from Snapshot to Annual Frequency

	3-month	12-month	24+ month	Total
Average Length of Service (Years) ¹	10	10	10	
Distribution of New PTSD ²	10%	30%	60%	
# of Times Counted in Annual Survey ³	0.25	1.00	10.00	6.33
Adjustment Factor to Annual Frequency ⁴				0.16

¹ Based on police & fire combined

² Based on distribution of PTSD claims from the National Comorbidity Survey (NCS)

³ Assumes 24+ months is lifetime PTSD

⁴ Equals 1/(total # of times counted in annual survey)

3.27

Exhibit 8.8: North Dakota: Post-Traumatic Stress Claims

Experience of Other States

	Nebraska	Missouri	Arkansas	Selected
# First Responders ¹	7,150	30,640	12,370	
Annual # of Claims ²	2	7	3	
# of Claims per First Responder	0.00028	0.00023	0.00024	0.00025
Average Claim Size ²	na	5,627	2,385	5,000

¹ Exhibit 8.9

² Nebraska legislative analysis

Exhibit 8.9: Protective & Emergency Medical Employment by State

Bureau of Labor & Statistics: May 2014

Occupation (Standard Occupational Classification code)	North				Description
	Dakota	Nebraska	Missouri	Arkansas	
First-Line Supervisors of Correctional Officers(331011)	220	320	300	260	Correctional
First-Line Supervisors of Police and Detectives(331012)	170	720	2,420	990	Police
First-Line Supervisors of Fire Fighting and Prevention Workers(331021)	70	320	1,340	510	Fire
First-Line Supervisors of Protective Service Workers All Other(331099)	130	280	910	290	Other
Firefighters(332011)	440	1,200	6,340	2,510	Fire
Fire Inspectors and Investigators(332021)	-	60	210	30	Fire
Forest Fire Inspectors and Prevention Specialists(332022)	-	-	-	160	Fire
Bailiffs(333011)	210	80	230	110	Correctional
Correctional Officers and Jailers(333012)	890	2,170	8,270	5,160	Correctional
Detectives and Criminal Investigators(333021)	240	350	1,630	530	Police
Parking Enforcement Workers(333041)	-	-	60	-	Other
Fish and Game Wardens(333031)	60	-	-	180	Other
Police and Sheriff's Patrol Officers(333051)	1,040	3,490	12,190	5,410	Police
Animal Control Workers(339011)	-	80	310	160	Other
Private Detectives and Investigators(339021)	-	-	1,020	120	Other
Gaming Surveillance Officers and Gaming Investigators(339031)	60	-	200	-	Other
Security Guards(339032)	1,750	4,060	15,790	5,540	Other
Crossing Guards(339091)	-	110	300	160	Other
Lifeguards Ski Patrol and Other Recreational Protective Service Workers(339092)	390	1,180	3,870	440	Other
Transportation Security Screeners(339093)	140	230	520	170	Other
Protective Service Workers All Other(339099)	150	610	1,430	600	Other
Protective Service Workers Misc.	230	410	90	60	Other
Emergency Medical Technicians and Paramedics (SOC code 292041)	810	1,010	6,510	2,230	EMT

3.29

Exhibit 8.9: Continued

	North Dakota	Nebraska	Missouri	Arkansas	Description
<u>Totals</u>					
Police	1,450	4,560	16,240	6,930	
Fire	510	1,580	7,890	3,210	
EMT	810	1,010	6,510	2,230	
Correctional	1,320	2,570	8,800	5,530	
Other	2,910	6,960	24,500	7,720	
Subtotal 1st Responder (ex Correctional, Other)	2,770	7,150	30,640	12,370	
Grand Total	7,000	16,680	63,940	25,620	

Total Protective Service
Occupations(330000) 6,190 15,670 57,430 23,390

Source: Bureau of Labor and Statistics: <http://www.bls.gov/soc/home.htm>

Exhibit 8.10: North Dakota: Cost of Post-Traumatic Stress

Victims of Workplace Violent Crime

Projected Cost

	Victims with no Physical Harm	Witnesses
<u># of Workplace Violent Crimes (Annual in ND)¹</u> (ex Law Enforcement)	920	1,153
<u>% Victims that Will Develop PTSD²</u>		
Low	15%	8%
High	24%	24%
<u>% PTSD from Victims of Workplace Violent Crimes³</u>		
Low	138	92
High	221	277
<u>Average Cost per Claim</u>		
Based on other States ⁴	5,000	5,000
Medical Only ⁵	12,300	12,300
"Worst Case" ⁵	101,100	101,100
<u>Projected Total Cost⁶</u>		
Low	689,934	461,056
Low-Mid	1,103,895	1,383,168
Mid	2,206,410	2,268,395
Mid-High	13,950,473	9,322,550
High	22,320,756	27,967,651

¹ Exhibit 8.11

² Wolff, N. L., & Shi, J. (2010). Trauma and incarcerated persons. In: Scott, C. L. (Ed.), *Handbook of Correctional Mental Health (2nd ed.)* (pp. 277-320).

Low projection assumes witnesses are 50% less likely to develop PTSD than victims

³ Projected # of Victims x % of Victims the Develop PTSD

⁴ Exhibit 8.8

⁵ Exhibit 8.4

⁶ Low = Low # Claims x other state cost per claim

Low-Mid = High # Claims x other state cost per claim

Mid = Average High & Low # Claims x Medical Only cost per claim

Mid-High = Low # Claims x "worst case" cost per claim

High = High # Claims x "worst case" cost per claim

3.31

Exhibit 8.11: Workplace Violent Crime Estimates

North Dakota

Projected Number of Annual Incidences

	Rate of Workplace Violent Crime ¹	# of Employees: North Dakota ²	# of Employees: U.S. ²	Adjustment for General Differences in Violent Crime (N.D. vs. U.S.) ³	Projected # of ND Workplace Violent Crimes ⁴
Medical	5.1	23,560	7,848,640	0.61	74
Mental health	20.5	2,690	2,421,440	0.61	34
Teaching	6.5	22,580	8,400,640	0.61	90
Law enforcement	47.7	2,440	1,213,870	0.61	71
Retail sales	7.7	27,330	8,500,690	0.61	129
Transportation	12.2	40,760	9,005,120	0.61	305
Other/unspecified	2.8	303,570	95,198,410	0.61	521
Total ex Law Enforcement		420,490	131,374,940		1,153
Total		422,930	132,588,810		1,224
Weighted Workplace Violent Crime Rate					
Ex Law Enforcement		4.5	4.5		
Total All		4.7	4.9	0.61	

¹ Source: Department of Justice, Report Workplace Violence, 1993-2009 NCJ 233094; Table 2. Workplace and nonworkplace violence, by occupation, 2005-2009
Rate of workplace violence per 1,000 employed persons aged 16+

² Source: Bureau of Labor and Statistics: <http://www.bls.gov/soc/home.htm>

³ Exhibit 8.13

⁴ U.S. Rate of Workplace Violent Crime x # of ND Employees / 1,000 x Adj. Factor for Differences in Violent Crime

3032

Exhibit 8.12: Workplace Violent Crime Estimates

North Dakota

Projected Number of Annual Incidence with No Physical Harm

	Projected # of ND Workplace Violent Crimes ¹	% of Violent Crime with no Physical Injury ²	Projected # of ND Workplace Violent Crimes w/no Physical Harm ³
Medical	74	80%	59
Mental health	34	80%	27
Teaching	90	80%	72
Law enforcement	71	80%	57
Retail sales	129	80%	103
Transportation	305	80%	243
Other/unspecified	521	80%	416
Total ex Law Enforcement	1,153		920
Total	1,224		977

¹ Exhibit 8.11

² Exhibit 8.13

Exhibit 8.13: Violent Crime Rates (Workplace and non-Workplace)**North Dakota vs. United States Violent Crime Rates¹**

	Violent Crime rate	Murder and nonnegligent manslaughte r rate	Forcible rape rate	Robbery rate	Aggravate d assault rate
North Dakota					
2010	229.5	1.5	36.3	13.3	178.3
2011	248.1	3.5	38.8	13.3	192.5
2012	244.7	4.0	38.9	18.7	183.1
Avg.	240.9	3.0	38.0	15.1	184.7
United States					
2010	404.5	4.8	27.7	119.3	252.8
2011	387.1	4.7	27.0	113.9	241.5
2012	386.9	4.7	26.9	112.9	242.3
Avg.	392.8	4.7	27.2	115.4	245.5
Avg. N.D./U.S.	0.61	0.64	1.40	0.13	0.75
% Not Involving Bodily Harm	80%	0%	0%	50%	100%
3 Yr Avg. Violent Crime Rate Not Involving Bodily Harm					
North Dakota	192.2	-	-	7.6	184.7
Unites States	303.2	-	-	57.7	245.5
Avg. N.D./U.S.	0.63	na	na	0.13	0.75

¹ Source: Uniform Crime Reporting Statistics<http://www.ucrdatatool.gov/>

Violent Crime Rates per 100,000 in population

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

3034

WORKERS' COMPENSATION REVIEW COMMITTEE

Tuesday, October 21, 2014
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Lonnie J. Laffen, Chairman, called the meeting to order at 2:00 p.m.

Members present: Senators Lonnie J. Laffen, Tom Campbell, George B. Sinner; Representatives Bill Amerman, Curtiss Kreun, Gary R. Sukut

Others present: See Appendix A

It was moved by Representative Kreun, seconded by Senator Campbell, and carried on a voice vote that the minutes of the September 8, 2014, meeting be approved as distributed.

Chairman Laffen said he plans on the committee completing its work for the interim by the end of the day's meeting. He said that Mr. Malcolm Dodge, Sedgwick Claims Management Services, Inc., will attend and participate by telephone.

The committee had the opportunity to discuss the Workforce Safety and Insurance (WSI) performance evaluation that was presented at the September 8, 2014, committee meeting. Committee Counsel distributed an email and a document (Appendix B) related to workers' compensation coverage of volunteer firefighters for posttraumatic stress disorder (PTSD) and the WSI designated medical provider program, which were provided by Mr. Dodge in the way of followup to the WSI performance evaluation presented at the previous meeting.

BILL DRAFTS

Job Offers

The committee reviewed the second draft of a bill draft [15.0264.02000] relating to the workers' compensation burden of proof for offers of employment. Chairman Laffen explained this version of the bill draft added the requirement that the job offer be provided by registered mail.

Representative Kreun and Senators Sinner and Campbell discussed whether the bill draft language could be clarified.

In response to a question from Representative Amerman, Chairman Laffen said the bill draft was prepared in response to issues raised during the workers' compensation claim review the committee performed at the July 1, 2014, committee meeting.

It was moved by Senator Sinner, seconded by Senator Campbell, and carried on a roll call vote that the bill draft relating to workers' compensation burden of proof for offers of employment be amended to provide "For purposes of this subsection, proof of offer of employment must be established by an employer's written offer to the employee by registered mail." Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Representative Kreun, seconded by Representative Sukut, and carried on a roll call vote that the bill draft, as amended, relating to workers' compensation burden of proof for offers of employment be approved and recommended to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

Posttraumatic Stress Disorder

The committee reviewed a bill draft [15.0316.02000] relating to workers' compensation posttraumatic stress disorder coverage for first responders.

Representative Amerman clarified that the committee is considering the bill draft as a result of a recommendation made in the WSI performance evaluation. He voiced concern that WSI is essentially transferring

its burden of complying with this recommendation by having the committee consider whether to recommend this bill draft.

335

In response to a question from Representative Amerman, Mr. Timothy Wahlin, Workforce Safety and Insurance, said the WSI Board of Directors has not made a recommendation on this bill draft and the bill draft has not yet been presented to the Governor; therefore, he is not able to report whether WSI will support or oppose the bill draft.

In response to a question from Senator Sinner, Mr. Wahlin said there have been numerous discussions and emails among staff regarding the PTSD bill draft. He said concerns of which he is aware relating to the bill draft are the same concerns that are raised any time benefits for psychological benefits are discussed. He said that in looking at how other states have addressed PTSD, there appears to be a significant split between those states that provide coverage for PTSD and those that do not. Although WSI is still in the process of determining the fiscal impact of providing coverage for PTSD, he said, the initial data indicates there would not be any significant financial impact for expanding this coverage to include PTSD as provided under the bill draft.

Mr. Dodge said as reported in the WSI performance evaluation, approximately 30 percent of states do not provide injury to the psyche without an accompanying physical injury and approximately 70 percent of the states provide some coverage for these injuries to the psyche regardless of whether accompanied by physical injury. Furthermore, he said, as provided in the WSI performance evaluation, workers' compensation coverage for PTSD typically falls into three categories of circumstances--PTSD that occurs to victims of violent crime, PTSD that results in the course of employment as a first responder, and PTSD that occurs as a result of unusual and extraordinary events.

Senator Campbell said he struggles with expanding workers' compensation coverage to include PTSD.

Chairman Laffen said he also struggles with expanding workers' compensation coverage to include PTSD. He said although this bill draft seems well-crafted, he is concerned if the Legislative Assembly expands this coverage for first responders as provided in this bill draft, over time the law will be amended to expand the coverage even further.

Representative Amerman said as the bill draft is written, it seems restrictive enough to limit WSI's liability and seems like a good start to address workers' compensation coverage of mental injury. He said sooner or later, North Dakota will have to deal with providing coverage of PTSD, as 70 percent of the states already provide this coverage.

Representative Sukut reminded the committee that multiple times over the years the Legislative Assembly has considered whether to expand workers' compensation coverage to include PTSD.

Representative Amerman said as the committee sits in this small room, with a small number of people in attendance, it may feel easy to kill this bill draft and not recommend it to the Legislative Management. However, he said, this topic deserves further discussion by interested persons. He said this issue is not going to go away and is like other ideas that eventually gain traction.

Representative Kreun said WSI has not completed its work on the matter of coverage of PTSD, as the WSI Executive Board and the Governor have not had the opportunity to review the bill draft and to take a position on the bill draft. For this bill draft to be successful, he said, it will be important to have the support of WSI.

Representative Amerman said not only has WSI not completed the process of reviewing the bill draft, but WSI has failed to comply with the WSI performance evaluation recommendations.

It was moved by Senator Sinner, seconded by Representative Amerman, and failed on a roll call vote that the bill draft relating to workers' compensation coverage of PTSD for first responders be approved and recommended to the Legislative Management. Senator Sinner and Representative Amerman voted "aye." Senators Laffen and Campbell and Representatives Kreun and Sukut voted "nay."

Chronic Opioid Therapy Treatment

The committee reviewed a bill draft [15.0317.01000] that would provide standards for workers' compensation coverage of chronic opioid therapy treatment.

Mr. Wahlin said the two most recent WSI performance evaluations have recommended WSI revise its policies and procedures relating to the use of narcotics.

In response to a question from Chairman Laffen, Mr. Wahlin said under the current law, WSI provides coverage for chronic opioid therapy treatment; however, this bill draft seeks to establish parameters for this coverage. 3.36

In response to a question from Representative Amerman, Mr. Wahlin said in determining whether an injured worker meets the requirements for chronic opioid therapy treatment, WSI would look for documentation in the providers' records. He said this bill draft is similar to the 2011 legislation addressing chronic opioid therapy treatment in that the bill draft defines what medical conditions would qualify as "chronic," requires the treatment result in increased functioning, and requires that the injured worker be subject to drug testing.

In response to a question from Representative Sukut, Mr. Wahlin said the nature of long-term opioid use is that an injured worker may become dependent on the medication.

In response to a question from Chairman Laffen, Mr. Wahlin said to his knowledge, all states have workers' compensation laws that provide medical benefits coverage. He said he is not aware of any state that does not provide coverage for opioids.

In response to a question from Representative Amerman, Mr. Wahlin said although the WSI Executive Board and the Governor have not had an opportunity to review the bill draft, he expects the board will support this bill draft because the board supported the 2011 legislation.

In response to a question from Senator Campbell, Mr. Wahlin said his recollection is that in 2011, the bill draft failed in the second house. He said the testimony in opposition to the bill draft included the concern WSI was interjecting itself too far into the patient/doctor relationship.

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Mr. Dodge said he thinks the bill draft has some merit, as it allows WSI to make sure WSI treatment protocols are followed. He said he suggests the pain management contract the injured worker signs include the terms of the law upfront so there is full disclosure and expectations are clear.

Mr. Dodge said if WSI is faced with discontinuing coverage of chronic opioid therapy treatment after a long period of coverage, WSI might want to consider coverage of detoxification treatment.

It was moved by Representative Kreun, seconded by Senator Campbell, and carried on a roll call vote that the bill draft relating to workers' compensation coverage of chronic opioid therapy treatment be approved and recommended to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Representative Kreun, seconded by Representative Sukut, and carried on a roll call vote, that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Senator Campbell, seconded by Representative Kreun, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Laffen adjourned the meeting sine die at 3:00 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:2



Workers' Compensation Institute

3.357

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BLOG NEWSLETTERS CLAIMS INSURANCE LEGAL MEDICAL DISINTEGRATION ARCHIVE

Minnesota Tackles PTSD

08.11.2013

Belated kudos to Minnesota Gov. Mark Dayton for putting his signature on HF1359/SF1234, which adds post-traumatic stress disorder (PTSD) to the list of covered occupational diseases under workers' compensation in that state. The bill had strong support in the Legislature, passing 128-0 in the House and 38-24 in the Senate. Dayton signed it into law in May.

PTSD treatment under workers' compensation is banned in many states, although of late similar bills have been making the rounds in state legislatures. The cause began to receive significant attention nationwide in the wake of workers' compensation denials to first responders at the Sandy Hook school shooting.

Sadly, the Minnesota impetus also can be traced to a school shooting. Minnesotans refer to a 2005 tragedy, when a 16-year-old shot and killed seven people at a school on the Red Lake Indian Reservation, a poor and remote area in Northern Minnesota. He wounded five people before taking his own life when police arrived. One of the teachers at the school claimed PTSD but was denied workers' compensation coverage because it wasn't on the list of covered diseases.

The Minnesota bill adding PTSD to the coverage list received support from the Minnesota Chamber of Commerce and the AFL-CIO. Estimates of the bill's effect on workers' compensation rates range from a 0.5 percent to a 4.0 percent increase.

The proposed change explicitly notes that "Mental impairment is not considered a disease if it results from a disciplinary action work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer for mental impairments resulting from disciplinary action, job transfer, layoff, demotion, promotion, termination retirement, or similar action taken in good faith by the employer." In other words, if you get fired or disciplined for doing a lousy job at work, don't try to get workers' compensation benefits. But if you have to respond to a devastating tragedy, you probably will be covered. Sounds fair to me.

(Read more Work Comp Nation blogs [here](#).)

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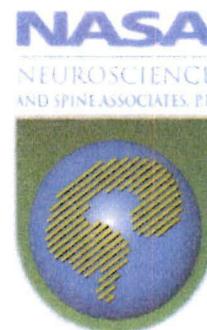
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Stress takes heavy toll on firefighters, experts say

3.38

Kirsti Marohn, USA TODAY 6:52 p.m. EST January 15, 2015



(Photo: Dave Schwarz, St. Cloud (Minn.) Times)

MELROSE, Minn. — Jerry Hartsworm was the kind of firefighter who didn't wait for the alarm.

Nine months ago, when he heard over his pager that a nearby department was responding to a barn fire, he jumped into his truck and headed to the station, knowing his department likely would be called to help.

What happened at the fire left Hartsworm changed.

He was injured, possibly by a falling beam or debris, and found himself lying face-down with flames all around him.

His physical injuries healed, but the mental scars he suffered have left him tormented and unable to work. Adding to the pain is the legal battle he has faced to get the city's insurance carrier to cover his medical expenses and lost wages.



USA TODAY

New bio: Jackie Kennedy suffered from PTSD

(<http://www.usatoday.com/story/life/books/2014/12/06/jacqueline-bouvier-kennedy-onassis-the-untold-story/19884731/>)

For Hartsworm, 50, who spent four years as a volunteer on the Melrose Fire Department in central Minnesota, life has become a daily struggle.

"Every one of us, when that pager goes off, we know there's a possibility that we're going to die," he said. "And we accept the fact that we could die. But what I cannot accept is the fact that I'm discarded — that I didn't get hurt the right way to be covered."

Firefighters are often thought of as heroes, bravely rushing into a dangerous situation to help others without a thought for their own safety.

But experts say they often pay a mental and emotional price. Post-traumatic stress disorder, depression, substance abuse and suicide are common problems among firefighters.

A 2014 report from the National Fallen Firefighters Foundation found that a fire department is three times more likely to experience a suicide in a given year than a line-of-duty death.

"What they're dealing with is not what the average person who works a 9-to-5 office job is going to see," said Chief Philip Stittleburg, chairman of the National Volunteer Fire Council. "We're finally coming to realize that these sorts of incidents take a toll on you."

For volunteer fire departments, which are often found in small towns and rural areas, there's a heightened chance that someone on the department will know the victim of a fire or accident, Stittleburg said.

"That adds a whole additional stress level to the operation," he said.

While career firefighters generally work regularly scheduled hours, volunteers can get called anytime of the day or night. They have to juggle those duties with family and work obligations, Stittleburg said.

"It does take a toll on the family when you're opening the Christmas presents and suddenly, off you go to a call," he said.

Firefighters often don't talk about the emotions of their job because they don't want to show any weakness to their colleagues, the community or themselves, said Jeff Dill, founder of the Firefighter Behavioral Health Alliance.

They try to handle it ourselves, and unfortunately, that's where the problems come in," Dill said.

3.39



A barn fire burns in Oak Township, Minn., on May 3, 2104 . (Photo: Stearns County Sheriff's Office)

After Hartsworm was injured in the barn fire last May, he spent three days in the hospital and two more weeks recovering at home, suffering from headaches and sensitivity to light. Hartsworm's doctor sent him to a neurology clinic in the Twin Cities, where he was diagnosed with a mild traumatic brain injury.

Hartsworm began having nightmares that he was trapped, burning, with no air to breathe, watching other firefighters get killed.

He spent five weeks in a psychiatry program, where he was diagnosed with PTSD. He still struggles with depression and anxiety and hasn't been able to return to his job as a supervisor at a local food-processing plant.

it for my life every day," Hartsworm said. "This is as real as going into a fire every day for me."



Volunteer firefighter Jerry Hartsworm of Melrose, Minn., was injured fighting a fire last May. (Photo: Dave Schwarz, St. Cloud (Minn.) Times)

Stittleburg's organization and others are trying to reduce the stigma surrounding mental health that exist in many fire departments.

"I think there is awareness, but it is growing at a much slower rate than we would like to see," he said.

Local officials can help by making sure there are employee-assistance programs available and that managers in the fire department are trained to recognize symptoms of stress, Stittleburg said.

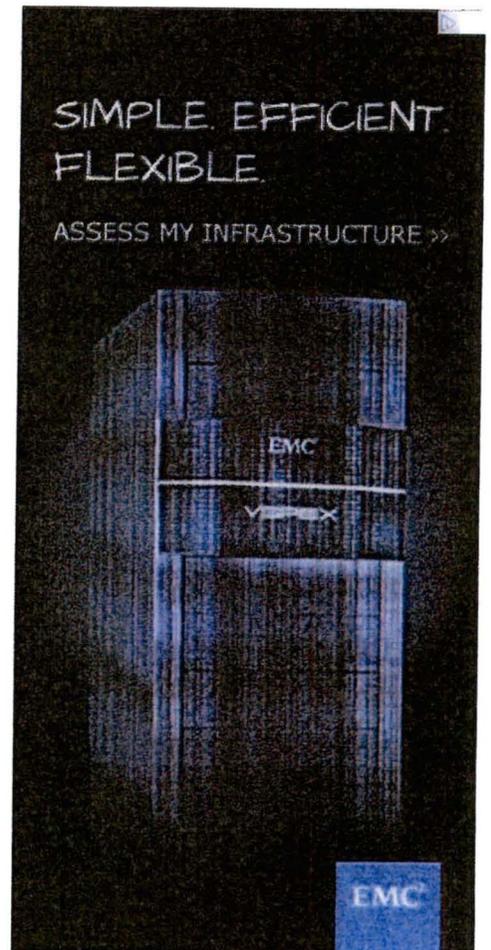
"It all boils down to changing the culture of the profession, and that in turn boils down to leadership," he said.

Dill travels around the country presenting workshops on mental health to fire departments. He said attitudes about mental health are changing. 3.40

"Fire chiefs are saying, 'We need to pay attention to this,' " Dill said. "People are starting to see the light. And that's what we need, because we're losing many of our brothers and sisters."

...arohn also reports for the St. Cloud Times

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January 26, 2015

Attach #4
SB 2256
01/26/15

Madam Chair and members of the Senate Human Services Committee,

My name is Dan Donlin, Chief of Police with the Bismarck Police Department. I have been in law enforcement for the past 27 years. I am sending this email in support of SB 2256.

Throughout a career in law enforcement, my career was no different; officers (human beings) are exposed to a multitude of horrific and traumatic events. These events include seeing and dealing with victims and family members involved in graphic suicides, homicides, SIDS deaths, officer involved shootings, witnessing the murder of a fellow police officer and attempted murder on you and other officers, and many other emotional and psychological traumatic events. Any one incident previously mentioned is difficult enough to deal with, but are exponentially difficult to deal with over one's career.

In 2003, I personally was involved in an incident where two armed individuals opened fire on us from their barricaded position. Three of my fellow officers were hit by the suspects' bullets, but miraculously no officers died that day. Unfortunately, however, by the end of the 14-hour armed standoff, I will have taken the life of one of the two suspects during another barrage of gunfire. You never "get over" having killed someone in the line of duty, but rather, you learn to live with it.

Taking a life in the line of duty is not something I ever hoped or wanted to do, no officer does. I entered the profession hoping to help people, not hurt people, but full well understood the realities of what my job could entail at any time. But, that realization does not change the fact that I, and most first responders, are compassionate people who suffer at varying degrees emotionally and psychologically from these very traumatic events. We all have our own ways to deal with the trauma, but sometimes it results in a diagnosis of PTSD. We as law enforcement and I as an Administrator are doing the best we can to get beyond the "tough it out" attitude and actually encourage each other to seek professional help as necessary.

Law enforcement suicides are at a much higher rate than the national average and much of that can be attributed to PTSD.

I encourage you and your committee to give SB 2256 a "do pass" recommendation and show that you care about the physical, emotional and psychological welfare of those that put themselves at the forefront and crossroads of these dangerous and traumatic events for the benefit of law and order and safe communities!

Thank you and God bless! I will stand for any questions.

Dan Donlin
Chief of Police
Bismarck Police Department

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

WORKERS' COMPENSATION REVIEW COMMITTEE2256
11/26/15
Attach#1
22533

Tuesday, October 21, 2014
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Lonnie J. Laffen, Chairman, called the meeting to order at 2:00 p.m.

Members present: Senators Lonnie J. Laffen, Tom Campbell, George B. Sinner; Representatives Bill Amerman, Curtiss Kreun, Gary R. Sukut

Others present: See Appendix A

It was moved by Representative Kreun, seconded by Senator Campbell, and carried on a voice vote that the minutes of the September 8, 2014, meeting be approved as distributed.

Chairman Laffen said he plans on the committee completing its work for the interim by the end of the day's meeting. He said that Mr. Malcolm Dodge, Sedgwick Claims Management Services, Inc., will attend and participate by telephone.

The committee had the opportunity to discuss the Workforce Safety and Insurance (WSI) performance evaluation that was presented at the September 8, 2014, committee meeting. Committee Counsel distributed an email and a document (Appendix B) related to workers' compensation coverage of volunteer firefighters for posttraumatic stress disorder (PTSD) and the WSI designated medical provider program, which were provided by Mr. Dodge in the way of followup to the WSI performance evaluation presented at the previous meeting.

BILL DRAFTS**Job Offers**

The committee reviewed the second draft of a bill draft [15.0264.02000] relating to the workers' compensation burden of proof for offers of employment. Chairman Laffen explained this version of the bill draft added the requirement that the job offer be provided by registered mail.

Representative Kreun and Senators Sinner and Campbell discussed whether the bill draft language could be clarified.

In response to a question from Representative Amerman, Chairman Laffen said the bill draft was prepared in response to issues raised during the workers' compensation claim review the committee performed at the July 1, 2014, committee meeting.

It was moved by Senator Sinner, seconded by Senator Campbell, and carried on a roll call vote that the bill draft relating to workers' compensation burden of proof for offers of employment be amended to provide "For purposes of this subsection, proof of offer of employment must be established by an employer's written offer to the employee by registered mail." Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Representative Kreun, seconded by Representative Sukut, and carried on a roll call vote that the bill draft, as amended, relating to workers' compensation burden of proof for offers of employment be approved and recommended to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

Posttraumatic Stress Disorder

The committee reviewed a bill draft [15.0316.02000] relating to workers' compensation posttraumatic stress disorder coverage for first responders.

Representative Amerman clarified that the committee is considering the bill draft as a result of a recommendation made in the WSI performance evaluation. He voiced concern that WSI is essentially transferring

its burden of complying with this recommendation by having the committee consider whether to recommend this bill draft.

In response to a question from Representative Amerman, Mr. Timothy Wahlin, Workforce Safety and Insurance, said the WSI Board of Directors has not made a recommendation on this bill draft and the bill draft has not yet been presented to the Governor; therefore, he is not able to report whether WSI will support or oppose the bill draft.

In response to a question from Senator Sinner, Mr. Wahlin said there have been numerous discussions and emails among staff regarding the PTSD bill draft. He said concerns of which he is aware relating to the bill draft are the same concerns that are raised any time benefits for psychological benefits are discussed. He said that in looking at how other states have addressed PTSD, there appears to be a significant split between those states that provide coverage for PTSD and those that do not. Although WSI is still in the process of determining the fiscal impact of providing coverage for PTSD, he said, the initial data indicates there would not be any significant financial impact for expanding this coverage to include PTSD as provided under the bill draft.

Mr. Dodge said as reported in the WSI performance evaluation, approximately 30 percent of states do not provide injury to the psyche without an accompanying physical injury and approximately 70 percent of the states provide some coverage for these injuries to the psyche regardless of whether accompanied by physical injury. Furthermore, he said, as provided in the WSI performance evaluation, workers' compensation coverage for PTSD typically falls into three categories of circumstances--PTSD that occurs to victims of violent crime, PTSD that results in the course of employment as a first responder, and PTSD that occurs as a result of unusual and extraordinary events.

Senator Campbell said he struggles with expanding workers' compensation coverage to include PTSD.

Chairman Laffen said he also struggles with expanding workers' compensation coverage to include PTSD. He said although this bill draft seems well-crafted, he is concerned if the Legislative Assembly expands this coverage for first responders as provided in this bill draft, over time the law will be amended to expand the coverage even further.

Representative Amerman said as the bill draft is written, it seems restrictive enough to limit WSI's liability and seems like a good start to address workers' compensation coverage of mental injury. He said sooner or later, North Dakota will have to deal with providing coverage of PTSD, as 70 percent of the states already provide this coverage.

Representative Sukut reminded the committee that multiple times over the years the Legislative Assembly has considered whether to expand workers' compensation coverage to include PTSD.

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Representative Amerman said not only has WSI not completed the process of reviewing the bill draft, but WSI has failed to comply with the WSI performance evaluation recommendations.

It was moved by Senator Sinner, seconded by Representative Amerman, and failed on a roll call vote that the bill draft relating to workers' compensation coverage of PTSD for first responders be approved and recommended to the Legislative Management. Senator Sinner and Representative Amerman voted "aye." Senators Laffen and Campbell and Representatives Kreun and Sukut voted "nay."

Chronic Opioid Therapy Treatment

The committee reviewed a bill draft [15_0317_01000] that would provide standards for workers' compensation coverage of chronic opioid therapy treatment.

Mr. Wahlin said the two most recent WSI performance evaluations have recommended WSI revise its policies and procedures relating to the use of narcotics.

In response to a question from Chairman Laffen, Mr. Wahlin said under the current law, WSI provides coverage for chronic opioid therapy treatment; however, this bill draft seeks to establish parameters for this coverage.

In response to a question from Representative Amerman, Mr. Wahlin said in determining whether an injured worker meets the requirements for chronic opioid therapy treatment, WSI would look for documentation in the providers' records. He said this bill draft is similar to the 2011 legislation addressing chronic opioid therapy treatment in that the bill draft defines what medical conditions would qualify as "chronic," requires the treatment result in increased functioning, and requires that the injured worker be subject to drug testing.

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Mr. Dodge said if WSI is faced with discontinuing coverage of chronic opioid therapy treatment after a long period of coverage, WSI might want to consider coverage of detoxification treatment.

It was moved by Representative Kreun, seconded by Senator Campbell, and carried on a roll call vote that the bill draft relating to workers' compensation coverage of chronic opioid therapy treatment be approved and recommended to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Representative Kreun, seconded by Representative Sukut, and carried on a roll call vote, that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Senator Campbell, seconded by Representative Kreun, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Laffen adjourned the meeting sine die at 3:00 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:2

**WORKFORCE SAFETY & INSURANCE
2015 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION**

BILL NO: SB 2256

BILL DESCRIPTION: PTSD Coverage

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed bill provides benefits for posttraumatic stress disorder sustained by first responders, including full-time paid firefighters, full-time paid law enforcement officers, and full-time paid emergency medical services personnel; requires the condition causing the posttraumatic stress disorder to be extraordinary and unusual when compared to the normal conditions of the particular employment; limits disability benefits to no more than twenty-six weeks; and limits all other benefits to \$15,000.

FISCAL IMPACT: Not quantifiable. We don't anticipate that the proposed legislation will have a material impact on statewide premium rate levels; however, rates for the specific first responder classifications may increase over time as a result of the expanded coverage. To what extent is unclear as we don't have access to an appropriate base of historical experience to use in deriving the estimates.

DATE: January 19, 2015

Attachment 1
J# 23007
02/02/15
SB 2256

Madam Chair Lee and members of the Senate Human Services Committee:

My name is Brad Jerome. I am writing on behalf of SB 2256. I would strongly encourage your support on this bill as it is intended to amend North Dakota Century Code relating to Worker's Compensation Coverage of First Responders for Posttraumatic Stress Disorder. As a North Dakota Resident and First Responder, I hold this intended legislation near and dear to me.

I am a lifelong North Dakota resident and a current North Dakota P.O.S.T. Certified Law Enforcement Officer. Throughout the course of my duties as a Law Enforcement Officer, I have had many experiences which have left a permanent scar on me. These scars are not visible to any human eye because they are internal scars which have had a profound impact on me as well as a number of Law Enforcement Officers and First Responders across the State of North Dakota.

On August 19, 2005, while serving as a Law Enforcement Officer in Northeastern North Dakota, I was called back to duty on a day off after learning my Chief of Police had been shot. In this incident many area First Responders and Law Enforcement Officers were involved in a shootout which included the burning of a County Courthouse. This incident was witnessed by several of my very close friends. Three of these friends were so directly involved in the incident that their careers came to an end. One by choice, one due to injuries, and the other struggled on with his career until he was terminated approximately a year and a half later. I was not directly affected internally by this incident but saw firsthand the carnage this incident had left.

In December 2006, I responded to a fatality crash days before Christmas. I was assigned to contact the family of the deceased party. After telling the male's mother her son's life had been taken as a result of the crash, the scream I heard still resonates with me. Having to console a mother who just lost her son was a very painful experience that I wish on no one. Especially being the one who had to inform the family that this tragic event occurred.

On July 8th, 2011, I responded to the scene of a Domestic Violence Incident where a female reported her boyfriend had held a knife to her. Sgt. Steven Kenner located the subject inside a van and began issuing commands for the subject to show his hands from the outside passenger side of the van. I went to the outside driver's side of the van and also began yelling at the male to show his hands. This male looked directly at me from inside the van, looked directly at Sgt. Kenner, back at me, and then back to Sgt. Kenner. At this time I heard a loud bang and saw a flash. This flash lit up the interior of the van enough for me to see the subject had fired a shot in the direction of Sgt. Kenner. I fired four rounds inside the van in an attempt to neutralize the threat, and give Sgt. Kenner and I time to take cover and re-engage.

I took cover in the direct front of the van. While waiting for the events to unfold, I looked over and saw Sgt. Kenner lying on the ground struggling to catch his breath. While struggling to catch his breath I saw him start gurgling blood from his mouth very profusely. While waiting for the events to unfold, I watched Sgt. Kenner take his last breaths. Not knowing whether or not I had subdued the

subject, I had no choice but to maintain my position and watch Sgt. Kenner take his dying breaths due to not knowing whether the subject was still an active threat. I later learned that I was successful in incapacitating the subject in the incident having shot the subject in the head. Sgt. Kenner was a very instrumental figure in my Law Enforcement career. One I looked up to as a father-type figure. His death was very impactful to me.

Following this incident I was placed on standard Administrative Leave and told to "Talk to nobody" about this incident. While on leave I read blogs saying I needed to "go back to the range". I would also hear my wife's cousin tell me not knowing I was the one who shot the subject tell me "You'd think they could have killed that guy". These moments really hurt and caused me to develop a negative attitude. Following this incident I was awarded several commendations to include my agency's highest honor, and a Bravery Award issued by the North Dakota Peace Officers Association. These awards and commendations do not heal the pain caused by the incidents that had unfolded.

On March 16th 2012, 9-months following the shooting of Sgt. Kenner, I was back on duty. The Kenner shooting had not yet been resolved in a court of law, so I am still being advised not to talk about it until it had been settled in court. On this evening I was present for another shooting incident. A knife wielding male had made threats to stab his girlfriend with her young daughter present. When officers confronted the male he began coming towards officers with his knife drawn. The male was shot during this incident after he kept approaching us. Approximately one month prior to this March 2012 shooting, I was the first responding officer to a homicide scene where an elderly woman had been beaten to death by her own son.

Following these incidents, I really began to feel an internal hurt that would not go away. I developed a very negative attitude towards work, the public, and even myself. I kept telling myself this would pass and I would get back to normal. This never happened. I began a downhill slide which prompted my employers to request I seek counseling for the effects of several traumatic incidents experienced during my Law Enforcement career. I was placed on Administrative Leave in an attempt to get myself back on track. These experiences were extraordinary and unusual. Prior to my involvement in these shootings there had only been a small number of shootings in the nine and a half years I had been employed as a Law Enforcement Officer. I was personally involved in 2, but affected by three.

I was sent to counseling. While undergoing counseling, I was diagnosed with Posttraumatic Stress Disorder. I continued to seek counseling. While counseling, I requested a Worker's Comp claim and was denied. I spoke to a female representative of Workforce Safety following my denial asking why I was denied. I was told that part of my job duties may require me to shoot someone. I asked if part of my job duties required me to watch a co-worker take his last breath. I was then told "I don't really feel comfortable talking about that", I requested an appeal.

I spoke to my Attorney Michael Geiermann looking for help with this. I was referred to Grand Forks Attorney Mac Schneider, who is also a North Dakota State Legislator. Attorney Schneider informed me due to the way the Worker's Compensation laws were written, that I would be unable to be awarded Worker's Compensation regarding the incident as I had not been physically injured.

I still continue to seek counseling even after I went through the counseling requested by my employing agency. This counseling allows me to act as a functioning, productive Law Enforcement Officer. These personal experiences are very extraordinary and unusual. I relate the non-visible injuries to a broken pane of glass. Once the glass has been broken, it will never be mended to its original form. It may be pieced to look somewhat like it once had, but will never be the same as It once was.

My personal experiences are unique to where not many First Responders have had these types of experiences in such a small amount of time. It is my hope this legislation passes so that other First Responders can have peace of mind knowing that their struggles and sacrifices sustained in the line of duty are treated effectively. I strongly encourage your support to this supportive legislation to not only Law Enforcement, but to ALL First Responders. Thank You for your time and interest in this very important matter.

Respectfully,

Brad Allan Jerome

Mar 4, 2015

A

SB 2256 - PTSD Coverage for Professional First Responders

Mr. Chairman and members of the House IBL Committee. Thank you for allowing me to be here and present this bill for your consideration.

I am George Sinner, Senator from District 46 in Fargo. I am a member of the Senate IBL Committee. During the interim period of the 63rd Legislative Assembly, I was honored to be a member of the Workers' Compensation Review Committee.

One of the interim committee's assignments was to review the Performance Evaluation of North Dakota's Workforce Safety & Insurance that examined the calendar years of 2011 thru 2013. Sedgwick and Associates of Roseville, California completed the evaluation and is the same company that had previously evaluated WSI in 2010.

Your will find in the Sedgwick report that Sedgwick examined eight elements of WSI policies and practices. One of the evaluations included "Post-Traumatic Stress Disorders". Recommendations were made pertaining to each element with cost considerations.

I have included a copy of the pages from the report that deal with Section Eight - the evaluation of Post-Traumatic Stress Disorders. Sedgwick notes in this section that North Dakota was one of only 15 states with no coverage for this disorder.

A full copy of the report is located at:

http://www.workforcesafety.com/library/Documents/reports/PerformanceEvaluation09_03_14.pdf

Mr. Chairman, in responding to the Sedgwick Report, WSI presented this identical bill to the interim review committee for approval. You can review the minutes of the committee meetings for the discussion on that bill.

This bill:

- Provides PTSD coverage for "first responders" defined as full-time paid firefighters, full-time paid law enforcement officers, and full-time paid emergency medical services personnel.
- Defines the employment events that must take place in order for the claimant to receive benefits.
- Limits benefits to not exceed 26 weeks or \$15,000.

I have also included some reference materials about PTSD for your reference.

Mr. Chairman, I ask that you and your committee give this bill a thorough vetting and come out with a do-pass recommendation.

Thank you.

Attachments:

1. Sedgwick Report Cover Letter
2. Sedgwick Report Element Eight pages 142-155
3. Sedgwick Report Exhibits 8.1 to 8.13
4. Workers' Compensation Review Committee minutes 10/21/14.
5. USA Today - Stress takes heavy toll on Firefighters.
6. Workers Compensation Institute - "Minnesota Tackles PTSD"

SB 2256
Mar 4, 2015



A1

2014

Performance Evaluation of North Dakota Workforce Safety and Insurance



September 3, 2014



September 3, 2014

Governor of North Dakota
The Legislative Assembly
Chairman of the Workforce Safety and Insurance Board of Directors
Chairman of the Workforce Safety and Insurance Board Audit Committee
Executive Director of Workforce Safety and Insurance

We are pleased to submit this report summarizing the results of the 2014 Performance Evaluation of Workforce Safety and Insurance (WSI). The Performance Evaluation primarily covers activities at WSI during Calendar Years 2011 through 2013, although some components of the evaluation cover a broader time span.

One purpose of this Performance Evaluation was to assess certain aspects of WSI and to provide recommendations for improvement. Another purpose was to evaluate certain North Dakota statutory provisions and administrative practices as compared to similar provisions and practices that we observe around the country and provide recommendations. Various financial impact estimates are made pertaining to Element Eight – the evaluation of Post-Traumatic Stress Disorder.

The Performance Evaluation features eight Elements including:

- Independent Medical Evaluations
- Fraud
- Certain Aspects of Claim Processes
- Vocational Rehabilitation
- Designated Medical Provider programs
- Narcotic Utilization
- Cost of Living Adjustments, and
- Post-Traumatic Stress Disorders.

This performance evaluation also included a review of a limited number of recommendations from the 2010 performance evaluation. Recommendations in this evaluation were made pertaining to each of the Elements where we felt opportunities existed to improve performance, establish greater cost efficiencies, or reasonably modify statutory provisions. Forty recommendations were made.



The report consists of an executive summary, sections pertaining to each Element, recommendations, WSI responses to the recommendations, and various supporting exhibits. In some instances, we added a reply to follow up on a WSI response to a recommendation.

We want to thank all those at WSI who assisted us in the Performance Evaluation process with a special note of thanks to the Internal Audit staff.

Sedgwick CMS – Risk Services Practice

Roseville, California

Element Eight: Review of Providing Coverage for Post-Traumatic Stress Disorder

Introduction

In this element, the State of North Dakota is interested in:

- An evaluation of post-traumatic stress disorder (PTSD) in five comparable workers' compensation systems to include an identification of any trends in coverage along with eligibility requirements for receiving coverage in each of the systems selected
- A determination of the economic impact on WSI of providing coverage for post-traumatic stress disorder for any type of compensable injury
- The pros and cons of providing post-traumatic stress disorder coverage and the various conditions associated with eligibility requirements

Within the original request for proposal (RFP) on this project, there had been a provision to suggesting that if national data were available relating to coverage of PTSD that we provide that information. National data in the workers' compensation community is not available nationally and is also difficult to obtain on a state by state basis. The RFP further suggested that if national data were not available that we work with the Evaluation Coordinator to estimate a cost to survey states so national trends could be identified.

Since the issuance of the proposal, we have worked with the Evaluation Coordinator and indirectly with the workers' compensation committee of the legislature to scale this element to specific types of PTSD circumstances and to forecast potential costs in keeping with those criteria.

Background

To achieve the above objectives, the following activities were undertaken:

- We reviewed the relevant sections of the North Dakota Century Code along with WSI's policies and procedures related to circumstances under which a claim for coverage of psychiatric condition is considered work-related
- We reviewed the current definition of PTSD as contained in the DSM-V (the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders) published by the American Psychiatric Association. This latest revision occurred in 2013.
- We reviewed a 2014 publication jointly compiled by the Workers Compensation Research Institute (WCRI) and the International Association of Industrial Accident Boards and Commissions (IAIABC) to gain a general understanding of state laws and whether mental injury claims are covered, not covered or if there may be limitations on coverage

- We selected five states to review in the context of this project (the five states selected are states which allow coverage under more narrow definitions of circumstances leading to a covered event)
- We reviewed statutory language in various jurisdictions to get a flavor for the variety of coverage afforded
- We reviewed all cases in North Dakota over the performance evaluation period where the nature of injury was designated by WSI as mental stress
- We reviewed PTSD literature specifically relating to the rate of PTSD among first responders, the percentage of crime victims who develop PTSD, and PTSD treatment costs
- We gathered statistics related to violent crime rates by type of crime nationally and in North Dakota, workplace violent crimes rates by occupation, and employment by occupation both nationally and in North Dakota.
- We developed different forecasting scenarios to assess the economic impact of any changes the legislature may decide to make to cover PTSD claims arising out of workplace experiences
- We obtained information from state subject matter experts in our own company to address particulars of the laws governing PTSD coverage
- We limited our analysis to the three following scenarios: a.) first responders; b.) victims of violent crimes where no physical injury is involved; and, c.) witnesses to sudden and extraordinary events in workplace environments
- We reviewed case law in North Dakota and other jurisdictions
- We read proposed legislation that the North Dakota legislature has considered during both the 2011 and 2013 sessions relating to PTSD (see proposed SB 2093 and HB 1427 from the 2011 session, and HB 1376 from 2013)

Findings

We include as Exhibit 8.1 the definition of Post-Traumatic Stress Disorder, a disorder first recognized in 1980, as it appears in the DSM-V published by the American Psychiatric Association. In summary, the definition spells out the kinds of stressors that one must experience for a diagnosis of PTSD to apply. Symptom clusters (intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and activity) are next discussed. Other attributes of the diagnosis include duration of symptoms, functioning and exclusions. One interesting feature of the diagnosis for consideration in statutory language and management by WSI is the duration component. Specifically, factors leading to a PTSD diagnosis must be present for a period of at least a month. As such, statutory language regarding the filing of a claim for benefits would have to take into account the minimum of a one-month lag time to satisfy diagnostic criteria. (See New Recommendation 8.1)

WSI's current procedure for paying for workplace psychiatric injuries is limited to cases that arise from physical injuries. The policy states in part, "NDCC 65-01-02 (10) (b) (10) and 65-01-02 (10) (a) (6) outline WSI responsibility in adjudicating mental or psychological conditions. A mental injury arising from a mental stimulus is not a compensable injury. A mental or psychological condition caused by a physical

injury may be compensable if the physical injury is determined to be 50% of the cause of the condition with reasonable medical certainty and the condition did not pre-exist the work injury.” (See New Recommendation 8.2)

For a national overview of how each state chooses to cover (or not) workplace mental injuries, we provide Table 8.1. This table shows states according to specific groupings. Those groupings are:

- states that do not cover mental injuries where there is no physical injury
- states that do not cover mental injuries where is no physical injury except in very specific exceptions
- states that do cover mental injuries but in a somewhat narrow manner
- states that cover mental injuries with fewer restrictions on coverage (note that Minnesota is the most recent addition to this group of states allowing PTSD claims for injuries occurring on or after 10/1/13)

You will see in the table below that there are 15 states that don’t allow coverage, two that do under very specific circumstances, seven that allow coverage but with certain restrictions that are less restrictive than the second group, and 26 that allow coverage more broadly.

Table 8.1: Coverage of Mental Injury by State where there is no physical injury

Coverage Grouping	States
No allowance	AL, CT, FL, GA, ID, IN, KS, KY, MY, ND, OH, SD, TX, WV, WY
No allowance except in violent crimes	AR, OK
Allowance with certain restrictions	AK, CO, MD, MI, NE, NH, UT
Broader coverage allowed	AZ, CA, DE, HI, IL, IA, LA, ME, MA, MN, MS, MO, NV, NJ, NM, NY, NC,, OR, PA, RI, SC, TN, VT, VA, WA, WI

As mentioned in the Introduction of this Element, we have agreed to limit our analysis of potential PTSD coverage to specific accident types. Those three accident types include the following circumstances:

- First responders
- Victims of violent crimes
- Exposure to unusual and extraordinary events

States that meet these criteria in one way or another include Arkansas, Colorado, Maryland, Nebraska and Oklahoma. We next provide background on those states.

First Responders (Nebraska):

In 2010, Nebraska passed legislation (Legislative Bill 780) allowing for mental injury claims for first responders. First responders are defined in the legislation in a manner that is similar to language considered by the North Dakota legislature in HB 1376 during the 2013 session. Specifically, the Nebraska legislation allows claims for mental injury to be submitted only by police and fire personnel as well as emergency medical staff.

Language in LB 780 allows for coverage for first responders in those situations that are “extraordinary and unusual in comparison to the normal conditions of the particular employment.” Viewed in the context of exposure to unusual and extraordinary events generally, we view first responder claims as a sub-set of the broader class of injuries that could fall within that definition.

When Nebraska’s legislation was enacted in 2010 it included a sunset provision in 2014. The legislature wanted to determine how this law might impact costs in the intervening years. By 2013, the legislature decided to remove the sunset provision because the frequency of claims had been so low that the cost impact had proven negligible. We were not able to obtain any hard data on claim cost but anecdotal information suggested less than ten claims of this type had been filed within the first three years following enactment. One case apparently cost about \$85,000 to resolve but most cases resolved for much more modest amounts.

In short, the Nebraska law is of recent vintage, and claim frequency and cost have been low. That state chose to limit coverage to certain occupations, notably those who are first on scene and who are exposed to accidents that may be categorized as horrific on a repetitive basis. The legislature chose not to include healthcare workers who work in trauma settings even though their exposure could be just as frequent.

Victims of Violent Crime (Arkansas and Oklahoma):

Arkansas and Oklahoma have statutes that allow for mental injury claims but only in circumstances tied to violent crimes. The Arkansas statute (A.C.A Section 11-9-113) states that no mental injury is allowed unless there is a physical injury and the mental illness arises from that injury. The only exception to that rule is the “physical limitation shall not apply to any victim of a crime of violence.”

Oklahoma’s statute (Title 85 – 3, paragraph 13, c) states that “Injury or personal injury shall not include mental injury that is unaccompanied by physical injury, except in the case of rape which arises out of and in the course of employment.”

Arkansas imposes further limitations on coverage of mental injury claims that do not involve physical injury in this fashion:

- Mental injury disability benefits are limited to 26 weeks
- Death benefits may only be claimed if the death occurs within one year of the original injury

SB 2093 that was considered by the North Dakota legislature in 2011 applies to this category of coverage. Language in that bill sought to limit both the types of claims that might be covered due to violent crime and included duration and cost caps, as well.

We do not have specific mental injury costs from either Arkansas or Oklahoma on claims arising out of these kinds of workplace exposures.

Unusual and Extraordinary Events (Colorado and Maryland):

Colorado and Maryland have statutes that allow for mental injury claims that arise from unusual and extraordinary events in the workplace. In Colorado, injuries may be covered when no physical injury has occurred but instead “consists of a psychologically traumatic event that is generally outside of a worker’s usual experience and would evoke significant symptoms of distress in a worker in similar circumstances.”

In Maryland, the court opined in Belcher v. T. Rowe Price that a mental injury could occur as a consequence of an unexpected and unforeseen event that occurs suddenly or violently. In this particular case, Ms. Belcher was seated at her desk on the top floor of an office building adjacent to a construction site. A 3-ton steel beam attached to a crane broke loose and crashed through the roof and landed about five feet from Ms. Belcher. Her claim of PTSD was found to be compensable. In Maryland, an individual may also claim PTSD as an occupational disease claim, something that occurred in Means v. Baltimore County. Means was a paramedic exposed to repeated, horrific accident scenes and over time she developed PTSD. The court commented that occupational disease cases by their nature occur slowly and insidiously. The court felt Means met that test.

In a manner akin to what we observed in Arkansas, the state of Colorado imposes a limitation on the amount of disability benefits a person may receive for a claim of mental injury. That limit is twelve weeks of disability benefits. That limit applies to the combination of temporary total and permanent disability. Note that these limits do not apply if the mental injury is a consequence of a physical injury. For purely mental injury claims, there is no limit on duration of medical treatment.

We do not have any objective financial information on mental injury claims either in Colorado or Maryland. In discussing claims of this type with claims professionals who work in those states, they have indicated that claims of this type are rare. One mentioned that she had personally managed only one accepted claim of this type and it was for a lineman who had witnessed a co-worker get electrocuted. Such a claim would be in keeping with the standard established in Belcher.

Economic impact on Any Type of Compensable Injury:

North Dakota already has in place statutory language that permits coverage for mental injury claims if they arise out of a physical injury. Hypothetically, we consider the cases of severe burn victims or amputees who continue to be psychologically impaired and in need of treatment due to the consequences of their injuries. WSI already pays benefits in such cases as long as the injured worker

meets the statutory requirement that, “a mental or psychological condition [is] caused by a physical injury, but only when the physical injury is determined with reasonable medical certainty to be at least fifty percent the cause of the condition as compared with all other contributing causes combined, and only when the condition did not pre-exist the injury.” See NDCC Section 65-01-02 (10)(a)(6).

When we consider the “impact on any type of compensable injury,” we provide that forecast elsewhere in this section. Having said that, we did review the decision of a North Dakota Administrative Law Judge in a case involving a truck driver who sustained relatively minor injuries in a traffic accident in which the other driver was killed. The truck driver was subsequently diagnosed with PTSD but his psychological injury arose out of the experience of the accident rather than his physical injuries. As a consequence, the ALJ ruled that no compensable mental injury had occurred. Under a workers’ compensation statute that recognizes mental injuries without corresponding physical injuries such cases could well prove to be compensable. It is cases like this one along with first responders and victims of violent crimes that we consider in our financial forecasts.

Regarding the economic impact of expanding workers’ compensation coverage of PTSD, we have developed projected medical and indemnity costs related to covering first responders, victims of violent crime (in which no physical harm occurs), and those who are exposed to unusual and extraordinary events. Our findings are summarized in Exhibit 8.2 under a variety of scenarios. We have also provided projections both including and excluding correctional officers, as it is unclear if they would be considered to be first responders.

Methods:

We separately calculated the impact of extending North Dakota workers’ compensation coverage to PTSD claims for first responders, victims of violent crime with no bodily injury, and witnesses of traumatic events. For each of these categories we used a 2-step approach. First we estimated the number of expected PTSD claims, and second we estimated the cost per claim. The total cost is then the product of the number of claims times the cost per claim. Using high and low projections of both claim counts and costs per claim we estimated a range of costs.

First Responders:

The following is a description of the methods we used to project medical and indemnity claims costs for first responders.

1. Projected Number of Claims: We produced two estimates of the number of claims. One estimate is based on the experience of other states, and the other is based on academic literature regarding levels of PTSD in first responders.

- a. Experience of Other States: We identified three states (Nebraska, Missouri, and Arkansas) that have some coverage for PTSD experienced by first responders. Using data from the U.S. Bureau of Labor and Statistics, we first identified the number of first responders in each state (Exhibit 8.9). We then calculated the frequency of PTSD claims by dividing the actual number of PTSD claims experienced in each state to the number of first responders in the state in (Exhibit 8.8). Based on the experience in these three states we selected an annual PTSD frequency of 0.00025 PTSD claims per first responder.

One of the weaknesses of this approach is that the definition of PTSD and the employees covered for PTSD are not identical among the three states we looked into, nor would they be identical to what may be implemented in North Dakota. One of the advantages of this approach, however, is that it is based on workers' compensation claims as opposed to the incidence of PTSD. It appears to us that workers' compensation PTSD claim reporting is below the projected incidence of PTSD.

- b. Academic Literature: There are many studies of PTSD, including ones that investigate the frequency of PTSD for police officers, firefighters, and emergency medical personnel. Unfortunately the studies are often based on small sample sizes and at times PTSD experience in foreign countries. Partly for this reason the literature points to a wide range of PTSD incidence.
 - i. Snapshot of Incidence of PTSD (Exhibit 8.6): The top part of the chart on Exhibit 8.5 shows the low and high range of the incidence of PTSD at a given point in time as described in the literature. Based on this range we selected a specific incidence rate that is between the low and high end of the range. By "snapshot" we mean the percentage of a population that would be identified as having PTSD if that population were surveyed all at once. Given that people often experience PTSD for extended periods of time, this snapshot is very different from the number of people in the population who develop PTSD on an annual basis.
 - ii. Conversion from Snapshot to Annual Incidence of "New" PTSD: In order to calculate this conversion, it's important to know how long PTSD is experienced. We used data from the National Comorbidity Survey (NCS) to estimate the percentage of PTSDs that last 3 months, 12 months, or longer ("lifetime"). This, combined with the average tenure of a first responder, tells us how many times a specific employee with PTSD would be counted in annual snapshots of PTSD. For example, if someone had PTSD for 3 months, then there would be a 25% chance that their PTSD would be included in an annual survey of PTSDs of a given population. On the other hand, if someone had PTSD for 10 years, then they would be included in 10 annual snapshot surveys. Based on this

information we calculated that a first responder with PTSD is likely to be counted 6.33 times in annual snapshots (Exhibit 8.7). This means that the frequency of new PTSD incidences is equal to the snapshot frequency divided by 6.33. Thus the conversion factor from snapshot frequency to annual “new” frequency is 0.16 ($=1/6.33$).

- iii. Annual Incidence of PTSD (Exhibit 8.6): We calculated the annual incidence of PTSD by multiplying the snapshot frequency of PTSD (step b-i) by the conversion factor of 0.16 (step b-ii).
- iv. Projected Number of Claims (Exhibit 8.5): This equals the number of first responders times the Annual incidence of PTSD.

One of the weaknesses of this approach is that it only identified the projected incidence of PTSD, and this can be very different from the number of PTSD claims that are filed. As we have discussed earlier, the number of PTSD claims filed in other states is lower than the projected incidence of PTSD. If this also holds true in North Dakota, then this method will substantially overestimate the number of PTSD claims that are filed.

- 2. Average Claim Size: We looked at the experience in other states as well as a “bottom up” approach in order to estimate the average size of a PTSD claim.
 - a. Experience of Other States: the average size of PTSD claims in Missouri and Arkansas has been under \$6,000 (Exhibit 8.8). This is based on legislative analysis performed by Nebraska when they were considering covering PTSD in workers’ compensation. While we do not have the exact experience for Nebraska, it is our understanding that of the six claims they have experienced, five were minor and one was larger. Based on this information from other states we selected an average claim size of \$5,000.
 - b. “Bottom Up” Approach (Exhibit 8.4): This approach involves separately estimating the various components of workers’ compensation benefits for PTSD claims. Temporary disability benefits are based on the maximum weekly benefit times the number of weeks of PTSD. This assumes that employees with PTSD are not able to perform their normal job functions. Based on the very low cost per PTSD claim in Missouri and Arkansas, it seems that in many cases those who file PTSD workers’ compensation claims continue to work or are able to get back to their regular job duties rather quickly without incurring a lot of temporary disability. For this reason we ultimately developed projected annual costs both including and excluding temporary disability benefits. We have assumed that there will be no permanent disability benefits for PTSD claims, and annual medical costs are based on a recent study comparing the cost of therapy and drug treatment for PTSD (See footnote 3 at Exhibit 8.4 for the complete reference).

3. Average Annual Cost: This is calculated based on the projected number of claims (step #1) times the projected average cost per claim (step #2). We developed a range of indications based on the different projections of claim counts and average claim size. This produces a wide range, primarily because the workers' compensation claims experience in Missouri and Arkansas is below what we would have expected if everyone who had an incidence of PTSD filed a workers' compensation claims. So the estimates that utilize actual workers' compensation experience in other states are below the estimates that are based on the estimated incidence of PTSD.

Witnesses to Sudden and Extraordinary Events in Workplace Environments

The following is a description of the methods we used to project medical and indemnity claims costs for people who experience traumatic events at the workplace.

1. Projected Number of Claims: In order to project the number of claims in this category, we have assumed that the extraordinary events are primarily based on witnessing violent crime at the workplace. We first projected the number of workplace violent crimes and assumed one witness per event. We then projected the number of PTSD claims based on the number of projected witnesses times a probability of a witness developing PTSD.

- a. Projected Number of Workplace Violent Crimes: In order to project the number of workplace violent crimes in North Dakota, we started with national statistics on violent crime at the workplace by job classification (U.S. Department of Justice) and applied those rates to North Dakota's distribution of employees by job classification (U.S. Bureau of Labor and Statistics, Exhibit 8.11). We excluded law enforcement since PTSD from first responders is already considered separately, and we did not want to double-count this exposure.

Next we adjusted for the fact that North Dakota tends to have a lower rate of violent crime than the U.S. in general (Exhibit 8.13). Based on data from the Uniform Crime Reporting Statistics, we found that between 2010 and 2012 North Dakota had a violent crime rate of 240.9 crimes per 100,000 of population. This is about 39% lower than the average U.S. violent crime rate of 392.8. As a result we reduced the estimate of workplace violent crimes by 39%, since those estimates were based on U.S. crime rates (Exhibit 8.11).

One of the weaknesses of this approach is that it assumes that PTSD from witnessing traumatic events at the workplace is only from violent crime. While this is a very imperfect assumption, it is the best we could reasonably assume given the information available.

- b. Number of Witnesses: We assumed that there is roughly one witness per workplace violent crime. This is a very imperfect projection, but it is the most reasonable assumption we could arrive at given the lack of available information. In general we assume that a lot of workplace violent crime occurs when there are no witnesses, but there are also events (such as those involving active shooters) in which there are many witnesses to a single event. Hence we arrived at the assumption of an average of one witness per crime.
 - c. Number of PTSD Claims: We have assumed that the percentage of witnesses of violent crime who develop PTSD is 8% and 24% at the low and high end, respectively (Exhibit 8.10). The literature suggests that somewhere between 15% and 24% of people who experience serious crime develop PTSD. On the low end we adjusted the 15% to 8%, under the assumption that witnesses are less likely to experience PTSD than direct victims. We did not adjust the high end estimate.
2. Average Claim Size: This is based on the exact same method as of first responders.
 3. Average Annual Cost: This is calculated based on the projected number of claims (step #1) times the projected average cost per claim (step #2). We developed a range of indications based on the different projections of claim counts and average claim size.

Victims of Serious Workplace Crimes Who Do Not Experience Physical Harm:

The method we used to project medical and indemnity claims costs for people who are victims of serious workplace crime but do not have physical injuries is identical to the method used to estimate the costs of those who experience workplace trauma but with two exceptions. The results are calculated in Exhibit 8.10, and the two exceptions are detailed as follows:

1. Violent Crimes Not Involving Physical Harm: Once we have calculated the number of workplace violent crimes, we needed to consider the percentage of those crimes that do not result in injuries to the victim. We looked at the violent crime rates by category and judgmentally assigned a probability that the crime would result in physical harm (Exhibit 8.13). We assumed that 100% of murder, manslaughter and rape result in physical harm. By definition 100% of assault does not result in physical harm, since assault is defined as creating apprehension of harm without actually creating that physical harm. We assumed that 50% of robberies result in physical harm. Since over 75% of violent crime in North Dakota has historically been categorized as aggravated assault, the assumption regarding assault was most influential to our results. Overall we assumed that about 80% of violent crime does not result in physical harm.

2. Witnesses: Since this section deals directly with victims of crime, we did not have to assume a specific ratio of crime victims per crime.

Assumptions & Limitations:

Our approach to estimating the economic impact of PTSD on workers' compensation in North Dakota has several key assumptions and limitations, including the following:

1. We have only estimated the impact on medical and indemnity costs. We have not estimated the impact on loss adjustment or other expenses.
2. We have assumed that the expansion of benefits would only affect PTSD claims and would not increase utilization of any other types of claims. Some states assume that an increase in benefits, particularly indemnity benefits, will result not only in an increased cost per claim but also an increase in claim frequency.
3. To the extent possible we have utilized workers' compensation PTSD experience in other states. However, there may be several differences between those states and North Dakota, including the workers' compensation environment, the economic environment, the definition of PTSD, and the job classes that may file workers' compensation claims for PTSD.
4. There is no definitive literature regarding the probability that people who experience traumatic events or are victims of crime will develop PTSD. We had to utilize studies that included small sample sizes and populations in environments very different from those in North Dakota in order to estimate some of these key assumptions. The applicability of these assumptions is a major limitation of our results.
5. It is unclear how many people who would be eligible to file workers' compensation PTSD claims will actually do so. Workers' compensation PTSD data from other states suggests that a significant percentage of eligible people do not file workers' compensation PTSD claims.
6. We have used violent crime as a proxy for extraordinary events that could induce PTSD among witnesses. It is likely that there are other types of events other than violent crime that could trigger PTSD, but our best proxy for these extraordinary events is violent crime.

General Factors to Consider:

Post-traumatic stress disorder was not recognized as a disorder by the American Psychiatric Association until 1980. Arguably many Vietnam and other earlier war veterans experienced PTSD without the diagnosis. Similarly, we can be sure that before the diagnosis appeared that workers encountered various workplace situations where a claim of PTSD could have been asserted.

In the introduction, we referenced a review of claims submitted to WSI during the performance evaluation where the nature of injury was mental stress. There were ten such claims over that three-year window (2011 – 2013). Of the ten, only two of the cases appeared to have met the qualifying circumstances we are considering for potential coverage under the workers' compensation system. One was a first responder case where the employee had been exposed to repeated death scenes. The other

was a police officer involved in multiple police officer shootings where deaths had occurred. The other eight chiefly pertained to employer – employee relations issues that were either specific or cumulative in nature.

When Minnesota enacted a law in 2013 allowing PTSD claims, it appeared that the passage of the law came about at least in part because of a school shooting that occurred in that state in 2005. A teacher at the school filed a claim for PTSD, which was denied, as no law existed in Minnesota to allow such a claim at that time. Estimates, on the potential cost of this new law, range from .5% to 4% of premium. (As reported on WSI's June 2013 Operating Report, premium earned for FY 2013 amounted to about \$334 million before accounting for premium discounts and ceded reinsurance premiums. Net premium earned amounted to about \$310 million. Were we to apply a similar financial estimate from the state of Minnesota to North Dakota and we base our estimate on net premium earned, then a premium increase of between approximately \$1.55 and \$12.4 million could be expected in North Dakota. See also Exhibit 8.2 where we project a mid-range cost of PTSD at slightly more than \$4.5 million.)

The Minnesota statute is also written to require that the law only applies to workers who experienced (a) traumatic event(s) on or after 10/1/13; that a diagnosis of PTSD is required that is consistent with the diagnostic requirements as spelled out by the DSM-V; and, that the diagnosis must be made by a licensed psychologist or psychiatrist.

Newtown, CT is the town where school shootings in late-2012 left 26 people dead, including 20 young school children. Connecticut does not cover mental injuries in the absence of a physical injury so claims made by safety officers or school teachers/administrators that experienced these events are not covered. At this writing, Connecticut was considering passage of a law that would allow for PTSD claims given the horrific nature of this event.

Common in the statutory schemes of various state's workers compensation systems is language akin to that found in North Dakota's proposed 2013 HB 1376; namely, that, "a mental injury arising from mental stimulus does not include a mental injury that results from an event or series of events that are incidental to normal employer and employee relations, including a personnel action by the employer such as a disciplinary action, work evaluation, transfer, promotion, demotion, salary review, or termination."

We reviewed various decisions related to coverage for mental injury claims in Illinois starting with a case called Pathfinder Company v. Industrial Commission. In that case, a worker was instructing a co-worker how to operate a machine and during the training the co-worker's hand was severed. The instructor reached into the machine, retrieved the hand, promptly fainted and subsequently experienced psychological injuries due to the shock of the event. The court ruled the psychological injury was compensable. The courts in Illinois have over time ruled that some mental injury claims are not compensable including ones involving cumulative workplace stressors such as verbal assaults or poor working conditions.

Pros and Cons:

The third part of this element asks us to consider the pros and cons of providing post-traumatic stress disorder coverage and the various conditions associated with eligibility requirements. We cover the cons first:

- Uncertainty exists as to the financial impact of covering this class of injuries
- In the minds of some, too much subjectivity may exist in making a diagnosis of PTSD for there to be a high degree of confidence in diagnostic accuracy
- A potential window may open for employees who now have no mental health coverage and their assertion of work-related PTSD could provide that coverage
- The workers' compensation system functions just fine as it is with respect to claims of mental injury, so why make a change
- About 30% of the states afford no mental injury coverage at all unless there is a physical injury that leads to the psychological condition

The pros:

- Employees have a no-fault way to receive benefits for workplace traumatic experiences as may be defined by statute
- Benefits can be statutorily structured to cure or relieve PTSD injuries to include certain cost controls
- It is reasonable to provide care for people if legitimately injured on the job whether the injury is physical or mental
- Workers' compensation systems change over time to recognize new ideas and improve benefits
- About 70% of the states afford some mental injury coverage ranging from very specific to broader circumstances

No doubt a broader list of pros and cons could be compiled.

One of the items we became aware of in our research of this project related to a claim of mental injury following a bank robbery that occurred in Gilby, ND. An editorial in the Fargo Forum took issue with the lack of coverage afforded to a bank employee who suffered mental trauma as a consequence of this experience. The Forum editorial also mentioned that the injured employee's medical costs amounted to about \$1,000. Given what we have learned in our research of PTSD, we're not sure that her injuries would have been covered if a PTSD law existed because the worker may not have had symptoms long enough to support a PTSD diagnosis.

But the case is illustrative for a different reason. The Forum editorial indicated that the cost of treatment amounted to only about \$1,000. While this may not be a typical experience for traumatized workers, we think it somewhat more likely that workers who have a one-time experience with a violent or horrific experience will have less expensive and less frequent claims than those workers (e.g., long-

time first responders) who may legitimately assert that they have been repeatedly traumatized by gruesome workplace events. For this latter group, the need to work in a new job may be a more likely consequence. As such, mental injury claims for this group could be more expensive given the greater likelihood that vocational rehabilitation services would be required.

Following traumatic events in the workplace, it is not uncommon for employers to provide crisis management professionals through employee assistance programs to address mental healthcare needs. Whether North Dakota chooses to enact a PTSD law or not, we assume that employers will continue to provide such services.

Summary Comments:

In considering what kind of recommendation to make related to coverage of PTSD in North Dakota, we focused our analysis on three case types (first responders, victims of violent crimes and those who have experienced unusual and extraordinary events). We have also found that in the states of Colorado and Arkansas benefit caps exist. And when we looked at Nebraska, we found that they introduced a bill for first responders in 2010, that this bill had a sunset provision, and that the frequency and cost of injuries related to the bill after roughly three years of experience were negligible.

Employees go to work as they are. Some have pre-existing conditions that influence claim decisions when they have workplace injuries. Some are more physically capable, some are more mentally astute, and some have greater coping mechanisms than their peers. When a worker is injured in the workplace, it is often as a consequence of his/her own failure to apply safe work methods. But coverage is not denied for that reason.

In most of the case circumstances we have referenced above, coverage is afforded for injuries to the psyche when the event or events are so out of the ordinary that the development of a psychological condition (PTSD) is viewed as a real and understandable consequence. Examples we referenced included witnessing a co-worker lose her hand, seeing a co-worker electrocuted, and the cumulative effects of psychological trauma for a first responder in Maryland.

We also provided in Exhibit 8.1 the current definition of PTSD according to the American Psychiatric Association, which requires a fairly rigid set of criteria be met to support the diagnosis. As well, certain exclusions apply. And a patient must have symptoms for at least a month to support the existence of PTSD in that individual. (See Recommendation 8.3)

In the event that WSI submits legislation that passes relating to Recommendation 8.3, then the legislature may also be required to amend the Century Code to address providers who are included in the Designated Medical Provider program. (See Recommendations 8.4, in that context.)

Exhibit 8.1: Definition of Post-Traumatic Stress Disorder

DSM-5 Criteria for PTSD

In 2013, the American Psychiatric Association revised the PTSD diagnostic criteria in the fifth edition of its Diagnostic and Statistical Manual of Mental Disorders (DSM-5) (1). The diagnostic criteria are specified below.

The criteria below are specific to adults, adolescents, and children older than six years. Diagnostic criteria for PTSD include a history of exposure to a traumatic event that meets specific stipulations and symptoms from each of four symptom clusters: intrusion, avoidance, negative alterations in cognitions and mood, and alterations in arousal and reactivity. The sixth criterion concerns duration of symptoms; the seventh assesses functioning; and, the eighth criterion clarifies symptoms as not attributable to a substance or co-occurring medical condition.

Two specifications are noted including delayed expression and a dissociative subtype of PTSD, the latter of which is new to DSM-5. In both specifications, the full diagnostic criteria for PTSD must be met for application to be warranted.

Criterion A: stressor

The person was exposed to: death, threatened death, actual or threatened serious injury, or actual or threatened sexual violence, as follows: **(one required)**

1. Direct exposure.
2. Witnessing, in person.
3. Indirectly, by learning that a close relative or close friend was exposed to trauma. If the event involved actual or threatened death, it must have been violent or accidental.
4. Repeated or extreme indirect exposure to aversive details of the event(s), usually in the course of professional duties (e.g., first responders, collecting body parts; professionals repeatedly exposed to details of child abuse). This does not include indirect non-professional exposure through electronic media, television, movies, or pictures.

Criterion B: intrusion symptoms

The traumatic event is persistently re-experienced in the following way(s): **(one required)**

1. Recurrent, involuntary, and intrusive memories. Note: Children older than six may express this symptom in repetitive play.
2. Traumatic nightmares. Note: Children may have frightening dreams without content related to the trauma(s).
3. Dissociative reactions (e.g., flashbacks), which may occur on a continuum from brief episodes to complete loss of consciousness. Note: Children may reenact the event in play.
4. Intense or prolonged distress after exposure to traumatic reminders.
5. Marked physiologic reactivity after exposure to trauma-related stimuli.

Criterion C: avoidance

Persistent effortful avoidance of distressing trauma-related stimuli after the event: **(one required)**

1. Trauma-related thoughts or feelings.
2. Trauma-related external reminders (e.g., people, places, conversations, activities, objects, or situations).

Criterion D: negative alterations in cognitions and mood

Negative alterations in cognitions and mood that began or worsened after the traumatic event: **(two required)**

1. Inability to recall key features of the traumatic event (usually dissociative amnesia; not due to head injury, alcohol, or drugs).
2. Persistent (and often distorted) negative beliefs and expectations about oneself or the world (e.g., "I am bad," "The world is completely dangerous").
3. Persistent distorted blame of self or others for causing the traumatic event or for resulting consequences.
4. Persistent negative trauma-related emotions (e.g., fear, horror, anger, guilt, or shame).
5. Markedly diminished interest in (pre-traumatic) significant activities.
6. Feeling alienated from others (e.g., detachment or estrangement).
7. Constricted affect: persistent inability to experience positive emotions.

Criterion E: alterations in arousal and reactivity

Trauma-related alterations in arousal and reactivity that began or worsened after the traumatic event: **(two required)**

1. Irritable or aggressive behavior
2. Self-destructive or reckless behavior
3. Hyper-vigilance
4. Exaggerated startle response
5. Problems in concentration
6. Sleep disturbance

Criterion F: duration

Symptoms referenced in Criteria B - E must persist for more than one month.

Criterion G: functional significance

Significant symptom-related distress or functional impairment must exist (e.g., social or occupational settings).

Criterion H: exclusion

Disturbance is not due to medication, substance use, or other illness.

Specify if: With dissociative symptoms

In addition to meeting criteria for diagnosis, an individual experiences high levels of either of the following in reaction to trauma-related stimuli:

Depersonalization: experience of being an outside observer of or detached from oneself (e.g., feeling as if "this is not happening to me" or one were in a dream).

De-realization: experience of unreality, distance, or distortion (e.g., "things are not real").

Specify if: With delayed expression

Full diagnosis is not met until at least six months after the trauma(s), although onset of symptoms may occur immediately.

Exhibit 8.2: North Dakota: Cost of Post-Traumatic Stress

Protective & Emergency Medical, Workplace Violence Victims & Witnesses

Projected Cost

	Protective All ¹	Protective ex Correctional ¹	Workplace Violent Crime Victims ²	Workplace Violent Crime Witnesses ³	Total All	Total ex Correctional
Low	5,113	3,463	689,934	461,056	1,156,103	1,154,453
Low-Mid	12,577	8,518	1,103,895	1,383,168	2,499,639	2,495,580
Mid	103,375	70,012	2,206,410	2,268,395	4,578,180	4,544,817
Mid-High	312,560	206,960	13,950,473	9,322,550	23,585,583	23,479,983
High	6,319,963	4,184,731	22,320,756	27,967,651	56,608,371	54,473,139

¹ Exhibit 8.3

² Exhibit 8.10

³ Same as cost of victims. Assumes on average one witness per crime.

Exhibit 8.3: North Dakota: Cost of Post-Traumatic Stress

Protective & Emergency Medical

Projected Cost

	Police	Fire	EMT	Correctional	Other	Total
<u># of PTSD Occurrences¹</u>						
Based on Literature: Selected	23	7	12	21	na	63
Based on other States	0.4	0.1	0.2	0.3	na	1.0
<u>Average Cost per Claim</u>						
Based on other States ²	5,000	5,000	5,000	5,000	5,000	5,000
Medical Only ³	12,300	12,300	12,300	12,300	12,300	12,300
"Worst Case" ³	101,100	101,100	101,100	101,100	101,100	101,100
<u>Projected Total Cost⁴</u>						
Low	1,813	638	1,013	1,650	na	5,113
Low-Mid	4,459	1,568	2,491	4,059	na	12,577
Mid	36,649	12,890	20,473	33,363	na	103,375
Mid-High	116,000	32,640	58,320	105,600	na	312,560
High	2,345,520	659,981	1,179,230	2,135,232	na	6,319,963

¹ Exhibit 8.5

² Exhibit 8.8

³ Exhibit 8.4

⁴ Low = Other states occurrence x other state cost per claim

Low-Mid = Other states occurrence x Medical Only cost per claim

Mid = Other states occurrence x "worst case" cost per claim

Mid-High = Occurrences in literature x other state cost per claim

High = Occurrences in literature x "worst case" cost per claim

Exhibit 8.4: North Dakota: Post-Traumatic Stress Claims

Projected Average Claim Size: "Worst Case"

	3-month	12-month	24+ month	Total
<u>Temporary Disability</u>				
# of weeks	13	52	104	
Weekly benefit ¹	1,120	1,120	1,120	
TD cost	14,560	58,240	116,480	88,800
<u>Permanent Disability²</u>	-	-	-	-
<u>Medical</u>				
# of Years of Treatment	0.25	1.00	2.00	
Annual Cost of Treatment ³	8,090	8,090	8,090	
Total Medical	2,023	8,090	16,180	12,300
<u>Total Cost per Claim⁴</u>	16,583	66,330	132,660	101,100
<u>Distribution of PTSD⁵</u>	10%	30%	60%	

¹ Based on current weekly max of \$1,098 increased by 2%

² Assume no Permanent Disability benefits allowed

³ Le QA, Doctor JN, Zoellner LA, Feeny NC (2014) Cost-effectiveness of prolonged exposure therapy versus pharmacotherapy and treatment choice in posttraumatic stress disorder (the Optimizing PTSD Treatment Trial): a doubly randomized preference trial. *J Clin Psychiatry*. 2014 Mar;75(3):222-30
2012 cost of \$7,778 adjusted to 2014 at 2% per year

⁴ Sum of TD, PD, and Medical costs. Total based on weighted average using distribution of PTSD

⁵ Based on distribution of PTSD claims from the National Comorbidity Survey (NCS)

Exhibit 8.5: North Dakota: Incidence of Post-Traumatic Stress

Protective & Emergency Medical

Projected Number of Annual Incidence

	Police	Fire	EMT	Correctional	Other	Total
<u># of Employees¹</u>	1,450	510	810	1,320	2,910	-
<u>Annual Frequency of PTSD²</u>						
Based on Literature: Low	1.4%	0.8%	0.9%	na		
Based on Literature: High	5.1%	2.6%	3.7%	na		
Based on Literature: Selected	1.6%	1.3%	1.4%	1.6%	na	
Based on other States ³	0.03%	0.03%	0.03%	0.03%	na	
<u>Projected # of Incidences³</u>						
Based on Literature: Low	21	4	7	na	na	
Based on Literature: High	74	13	30	na	na	
Based on Literature: Selected	23	7	12	21	na	63
Based on other States ³	0.4	0.1	0.2	0.3	na	1

¹ Source: Bureau of Labor and Statistics: <http://www.bls.gov/soc/home.htm>

² Sources for frequency of PTSD literature

³ Exhibit 8.8

⁴ Equals # of employees x annual claim frequency

Exhibit 8.6: North Dakota: Incidence of Post-Traumatic Stress

Protective & Emergency Medical

Claim Frequency Rates per Employee

	Police	Fire	EMT	Correctional	Other
<u>Snapshot Frequency of PTSD¹</u>					
Based on Literature: Low	8.9%	5.0%	5.6%	na	
Based on Literature: High	31.9%	16.3%	23.0%	na	
Based on Literature: Selected	10.0%	8.0%	9.0%	10.0%	na
<u>Annualization Adjustment Factor²</u>					
	0.16	0.16	0.16	0.16	0.16
<u>Annual Frequency of PTSD³</u>					
Based on Literature: Low	1.4%	0.8%	0.9%	na	na
Based on Literature: High	5.1%	2.6%	3.7%	na	na
Based on Literature: Selected	1.6%	1.3%	1.4%	1.6%	na

¹ This represents the frequency in a sampled population at a moment in time

fire lo	Del Ben, K.S., Scotti, J.R., Chen, Y., & Fortson, B.L. (2006). Prevalence of posttraumatic stress disorder symptoms in firefighters. <i>Work and Stress</i> , 20, 37-48.
fire hi	Heinrichs, M., Wagner D., Schoch W., Soravia L.M., Hellhammer DH, Ehlert U (2005). Predicting Posttraumatic stress symptoms from pretraumatic risk factors: a 2-year prospective follow-up study in firefighters. <i>Am. J. Psychiatry</i> , 162(12), 2276-86, 20, 37-48.
pol lo	Asmundson, Gordon J.G. and Stapleton, Jennifer (2008). Associations between dimensions of anxiety sensitivity and PTSD symptom clusters in active-duty police officers. <i>Cognitive Behaviour Therapy</i> Vol. 37, No. 2, 66-75
pol hi	Deborah B. Maia, Metzler T., Nobrega A., Berger W., Mendlowicz M., Coutinho E., Figueira I. (2008). Abnormal serum lipid profile in Brazilian police officers with post-traumatic stress disorder. <i>J Affect Disord.</i> , 107(0): 259-263.
pol other	Violanti JM, Fekedulegn D, Hartley TA, Andrew ME, Charles LE, Mnatsakanova A, Burchfiel CM. (2006) Police trauma and cardiovascular disease: between PTSD symptoms and metabolic syndrome. <i>International Journal of Emergency Mental Health</i> , 8(4), 227-237 association
Amb low	Bennett P, Williams Y, Page N, Hood K, Woollard M, Vetter N. (2005) Associations between organizational and incident factors and emotional distress in emergency ambulance personnel. <i>Br J Clin Psychol.</i> 44(2), 215-226
Amb high	William Berger, Figueira I., Maurat A.M., Bucassio E. P., Vieira I., Jardim S., Coutinho E., Mari J.J., Mendlowicz M. (2007) Partial and full PTSD in Brazilian ambulance workers: Prevalence and impact on health and on quality of life. <i>Journal of Traumatic Stress</i> , Vol. 20 (4), 637-642

² Exhibit 8.7

³ This represents the annual incidence of PTSD

Exhibit 8.7: North Dakota: Post-Traumatic Stress Claims

Adjustment from Snapshot to Annual Frequency

	3- month	12- month	24+ month	Total
Average Length of Service (Years) ¹	10	10	10	
Distribution of New PTSD ²	10%	30%	60%	
# of Times Counted in Annual Survey ³	0.25	1.00	10.00	6.33
Adjustment Factor to Annual Frequency ⁴				0.16

¹ Based on police & fire combined

² Based on distribution of PTSD claims from the National Comorbidity Survey (NCS)

³ Assumes 24+ months is lifetime PTSD

⁴ Equals 1/(total # of times counted in annual survey)

Exhibit 8.8: North Dakota: Post-Traumatic Stress Claims

Experience of Other States

	Nebraska	Missouri	Arkansas	Selected
# First Responders ¹	7,150	30,640	12,370	
Annual # of Claims ²	2	7	3	
# of Claims per First Responder	0.00028	0.00023	0.00024	0.00025
Average Claim Size ²	na	5,627	2,385	5,000

¹ Exhibit 8.9

² Nebraska legislative analysis

Exhibit 8.9: Protective & Emergency Medical Employment by State

Bureau of Labor & Statistics: May 2014

Occupation (Standard Occupational Classification code)	North Dakota	Nebraska	Missouri	Arkansas	Description
First-Line Supervisors of Correctional Officers(331011)	220	320	300	260	Correctional
First-Line Supervisors of Police and Detectives(331012)	170	720	2,420	990	Police
First-Line Supervisors of Fire Fighting and Prevention Workers(331021)	70	320	1,340	510	Fire
First-Line Supervisors of Protective Service Workers All Other(331099)	130	280	910	290	Other
Firefighters(332011)	440	1,200	6,340	2,510	Fire
Fire Inspectors and Investigators(332021)	-	60	210	30	Fire
Forest Fire Inspectors and Prevention Specialists(332022)	-	-	-	160	Fire
Bailiffs(333011)	210	80	230	110	Correctional
Correctional Officers and Jailers(333012)	890	2,170	8,270	5,160	Correctional
Detectives and Criminal Investigators(333021)	240	350	1,630	530	Police
Parking Enforcement Workers(333041)	-	-	60	-	Other
Fish and Game Wardens(333031)	60	-	-	180	Other
Police and Sheriff's Patrol Officers(333051)	1,040	3,490	12,190	5,410	Police
Animal Control Workers(339011)	-	80	310	160	Other
Private Detectives and Investigators(339021)	-	-	1,020	120	Other
Gaming Surveillance Officers and Gaming Investigators(339031)	60	-	200	-	Other
Security Guards(339032)	1,750	4,060	15,790	5,540	Other
Crossing Guards(339091)	-	110	300	160	Other
Lifeguards Ski Patrol and Other Recreational Protective Service Workers(339092)	390	1,180	3,870	440	Other
Transportation Security Screeners(339093)	140	230	520	170	Other
Protective Service Workers All Other(339099)	150	610	1,430	600	Other
Protective Service Workers Misc.	230	410	90	60	Other
Emergency Medical Technicians and Paramedics (SOC code 292041)	810	1,010	6,510	2,230	EMT

Exhibit 8.9: Continued

	North Dakota	Nebraska	Missouri	Arkansas	Description
<u>Totals</u>					
Police	1,450	4,560	16,240	6,930	
Fire	510	1,580	7,890	3,210	
EMT	810	1,010	6,510	2,230	
Correctional	1,320	2,570	8,800	5,530	
Other	2,910	6,960	24,500	7,720	
Subtotal 1st Responder (ex Correctional, Other)	2,770	7,150	30,640	12,370	
Grand Total	7,000	16,680	63,940	25,620	

Total Protective Service Occupations(330000)	6,190	15,670	57,430	23,390
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Source: Bureau of Labor and Statistics: <http://www.bls.gov/soc/home.htm>

Exhibit 8.10: North Dakota: Cost of Post-Traumatic Stress

Victims of Workplace Violent Crime

Projected Cost

	Victims with no Physical Harm	Witnesses
<u># of Workplace Violent Crimes (Annual in ND)¹</u> (ex Law Enforcement)	920	1,153
<u>% Victims that Will Develop PTSD²</u>		
Low	15%	8%
High	24%	24%
<u>% PTSD from Victims of Workplace Violent Crimes³</u>		
Low	138	92
High	221	277
<u>Average Cost per Claim</u>		
Based on other States ⁴	5,000	5,000
Medical Only ⁵	12,300	12,300
"Worst Case" ⁵	101,100	101,100
<u>Projected Total Cost⁶</u>		
Low	689,934	461,056
Low-Mid	1,103,895	1,383,168
Mid	2,206,410	2,268,395
Mid-High	13,950,473	9,322,550
High	22,320,756	27,967,651

¹ Exhibit 8.11

² Wolff, N. L., & Shi, J. (2010). Trauma and incarcerated persons. In: Scott, C. L. (Ed.), *Handbook of Correctional Mental Health (2nd ed.)* (pp. 277-320).

Low projection assumes witnesses are 50% less likely to develop PTSD than victims

³ Projected # of Victims x % of Victims the Develop PTSD

⁴ Exhibit 8.8

⁵ Exhibit 8.4

⁶ Low = Low # Claims x other state cost per claim

Low-Mid = High # Claims x other state cost per claim

Mid = Average High & Low # Claims x Medical Only cost per claim

Mid-High = Low # Claims x "worst case" cost per claim

High = High # Claims x "worst case" cost per claim

Exhibit 8.11: Workplace Violent Crime Estimates

North Dakota

Projected Number of Annual Incidences

	Rate of Workplace Violent Crime ¹	# of Employees: North Dakota ²	# of Employees: U.S. ²	Adjustment for General Differences in Violent Crime (N.D. vs. U.S.) ³	Projected # of ND Workplace Violent Crimes ⁴
Medical	5.1	23,560	7,848,640	0.61	74
Mental health	20.5	2,690	2,421,440	0.61	34
Teaching	6.5	22,580	8,400,640	0.61	90
Law enforcement	47.7	2,440	1,213,870	0.61	71
Retail sales	7.7	27,330	8,500,690	0.61	129
Transportation	12.2	40,760	9,005,120	0.61	305
Other/unspecified	2.8	303,570	95,198,410	0.61	521
Total ex Law Enforcement		420,490	131,374,940		1,153
Total		422,930	132,588,810		1,224
Weighted Workplace Violent Crime Rate					
Ex Law Enforcement		4.5	4.5		
Total All		4.7	4.9	0.61	

¹ Source: Department of Justice, Report Workplace Violence, 1993-2009 NCJ 233094;
Table 2. Workplace and nonworkplace violence, by occupation, 2005-2009
Rate of workplace violence per 1,000 employed persons aged 16+

² Source: Bureau of Labor and Statistics: <http://www.bls.gov/soc/home.htm>

³ Exhibit 8.13

⁴ U.S. Rate of Workplace Violent Crime x # of ND Employees / 1,000 x Adj. Factor for Differences in Violent Crime

Exhibit 8.12: Workplace Violent Crime Estimates

North Dakota

Projected Number of Annual Incidence with No Physical Harm

	Projected # of ND Workplace Violent Crimes ¹	% of Violent Crime with no Physical Injury ²	Projected # of ND Workplace Violent Crimes w/no Physical Harm ³
Medical	74	80%	59
Mental health	34	80%	27
Teaching	90	80%	72
Law enforcement	71	80%	57
Retail sales	129	80%	103
Transportation	305	80%	243
Other/unspecified	521	80%	416
Total ex Law Enforcement	1,153		920
Total	1,224		977

¹ Exhibit 8.11

² Exhibit 8.13

Exhibit 8.13: Violent Crime Rates (Workplace and non-Workplace)

North Dakota vs. United States Violent Crime Rates¹

	Violent Crime rate	Murder and nonnegligent manslaughter rate	Forcible rape rate	Robbery rate	Aggravated assault rate
North Dakota					
2010	229.5	1.5	36.3	13.3	178.3
2011	248.1	3.5	38.8	13.3	192.5
2012	244.7	4.0	38.9	18.7	183.1
Avg.	240.9	3.0	38.0	15.1	184.7
United States					
2010	404.5	4.8	27.7	119.3	252.8
2011	387.1	4.7	27.0	113.9	241.5
2012	386.9	4.7	26.9	112.9	242.3
Avg.	392.8	4.7	27.2	115.4	245.5
Avg. N.D./U.S.	0.61	0.64	1.40	0.13	0.75
% Not Involving Bodily Harm	80%	0%	0%	50%	100%
3 Yr Avg. Violent Crime Rate Not Involving Bodily Harm					
North Dakota	192.2	-	-	7.6	184.7
United States	303.2	-	-	57.7	245.5
Avg. N.D./U.S.	0.63	na	na	0.13	0.75

¹ Source: Uniform Crime Reporting Statistics
<http://www.ucrdatatool.gov/>
 Violent Crime Rates per 100,000 in population

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

WORKERS' COMPENSATION REVIEW COMMITTEE

Tuesday, October 21, 2014
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Lonnie J. Laffen, Chairman, called the meeting to order at 2:00 p.m.

Members present: Senators Lonnie J. Laffen, Tom Campbell, George B. Sinner; Representatives Bill Amerman, Curtiss Kreun, Gary R. Sukut

Others present: See [Appendix A](#)

It was moved by Representative Kreun, seconded by Senator Campbell, and carried on a voice vote that the minutes of the September 8, 2014, meeting be approved as distributed.

Chairman Laffen said he plans on the committee completing its work for the interim by the end of the day's meeting. He said that Mr. Malcolm Dodge, Sedgwick Claims Management Services, Inc., will attend and participate by telephone.

The committee had the opportunity to discuss the Workforce Safety and Insurance (WSI) [performance evaluation](#) that was presented at the September 8, 2014, committee meeting. Committee Counsel distributed an email and a document ([Appendix B](#)) related to workers' compensation coverage of volunteer firefighters for posttraumatic stress disorder (PTSD) and the WSI designated medical provider program, which were provided by Mr. Dodge in the way of followup to the WSI performance evaluation presented at the previous meeting.

BILL DRAFTS

Job Offers

The committee reviewed the second draft of a bill draft [[15.0264.02000](#)] relating to the workers' compensation burden of proof for offers of employment. Chairman Laffen explained this version of the bill draft added the requirement that the job offer be provided by registered mail.

Representative Kreun and Senators Sinner and Campbell discussed whether the bill draft language could be clarified.

In response to a question from Representative Amerman, Chairman Laffen said the bill draft was prepared in response to issues raised during the workers' compensation claim review the committee performed at the July 1, 2014, committee meeting.

It was moved by Senator Sinner, seconded by Senator Campbell, and carried on a roll call vote that the bill draft relating to workers' compensation burden of proof for offers of employment be amended to provide "For purposes of this subsection, proof of offer of employment must be established by an employer's written offer to the employee by registered mail." Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Representative Kreun, seconded by Representative Sukut, and carried on a roll call vote that the bill draft, as amended, relating to workers' compensation burden of proof for offers of employment be approved and recommended to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

Posttraumatic Stress Disorder

The committee reviewed a bill draft [[15.0316.02000](#)] relating to workers' compensation posttraumatic stress disorder coverage for first responders.

Representative Amerman clarified that the committee is considering the bill draft as a result of a recommendation made in the WSI performance evaluation. He voiced concern that WSI is essentially transferring

its burden of complying with this recommendation by having the committee consider whether to recommend this bill draft.

In response to a question from Representative Amerman, Mr. Timothy Wahlin, Workforce Safety and Insurance, said the WSI Board of Directors has not made a recommendation on this bill draft and the bill draft has not yet been presented to the Governor; therefore, he is not able to report whether WSI will support or oppose the bill draft.

In response to a question from Senator Sinner, Mr. Wahlin said there have been numerous discussions and emails among staff regarding the PTSD bill draft. He said concerns of which he is aware relating to the bill draft are the same concerns that are raised any time benefits for psychological benefits are discussed. He said that in looking at how other states have addressed PTSD, there appears to be a significant split between those states that provide coverage for PTSD and those that do not. Although WSI is still in the process of determining the fiscal impact of providing coverage for PTSD, he said, the initial data indicates there would not be any significant financial impact for expanding this coverage to include PTSD as provided under the bill draft.

Mr. Dodge said as reported in the WSI performance evaluation, approximately 30 percent of states do not provide injury to the psyche without an accompanying physical injury and approximately 70 percent of the states provide some coverage for these injuries to the psyche regardless of whether accompanied by physical injury. Furthermore, he said, as provided in the WSI performance evaluation, workers' compensation coverage for PTSD typically falls into three categories of circumstances--PTSD that occurs to victims of violent crime, PTSD that results in the course of employment as a first responder, and PTSD that occurs as a result of unusual and extraordinary events.

Senator Campbell said he struggles with expanding workers' compensation coverage to include PTSD.

Chairman Laffen said he also struggles with expanding workers' compensation coverage to include PTSD. He said although this bill draft seems well-crafted, he is concerned if the Legislative Assembly expands this coverage for first responders as provided in this bill draft, over time the law will be amended to expand the coverage even further.

Representative Amerman said as the bill draft is written, it seems restrictive enough to limit WSI's liability and seems like a good start to address workers' compensation coverage of mental injury. He said sooner or later, North Dakota will have to deal with providing coverage of PTSD, as 70 percent of the states already provide this coverage.

Representative Sukut reminded the committee that multiple times over the years the Legislative Assembly has considered whether to expand workers' compensation coverage to include PTSD.

Representative Amerman said as the committee sits in this small room, with a small number of people in attendance, it may feel easy to kill this bill draft and not recommend it to the Legislative Management. However, he said, this topic deserves further discussion by interested persons. He said this issue is not going to go away and is like other ideas that eventually gain traction.

Representative Kreun said WSI has not completed its work on the matter of coverage of PTSD, as the WSI Executive Board and the Governor have not had the opportunity to review the bill draft and to take a position on the bill draft. For this bill draft to be successful, he said, it will be important to have the support of WSI.

Representative Amerman said not only has WSI not completed the process of reviewing the bill draft, but WSI has failed to comply with the WSI performance evaluation recommendations.

It was moved by Senator Sinner, seconded by Representative Amerman, and failed on a roll call vote that the bill draft relating to workers' compensation coverage of PTSD for first responders be approved and recommended to the Legislative Management. Senator Sinner and Representative Amerman voted "aye." Senators Laffen and Campbell and Representatives Kreun and Sukut voted "nay."

Chronic Opioid Therapy Treatment

The committee reviewed a bill draft [15.0317.01000] that would provide standards for workers' compensation coverage of chronic opioid therapy treatment.

Mr. Wahlin said the two most recent WSI performance evaluations have recommended WSI revise its policies and procedures relating to the use of narcotics.

In response to a question from Chairman Laffen, Mr. Wahlin said under the current law, WSI provides coverage for chronic opioid therapy treatment; however, this bill draft seeks to establish parameters for this coverage.

In response to a question from Representative Amerman, Mr. Wahlin said in determining whether an injured worker meets the requirements for chronic opioid therapy treatment, WSI would look for documentation in the providers' records. He said this bill draft is similar to the 2011 legislation addressing chronic opioid therapy treatment in that the bill draft defines what medical conditions would qualify as "chronic," requires the treatment result in increased functioning, and requires that the injured worker be subject to drug testing.

In response to a question from Representative Sukut, Mr. Wahlin said the nature of long-term opioid use is that an injured worker may become dependent on the medication.

In response to a question from Chairman Laffen, Mr. Wahlin said to his knowledge, all states have workers' compensation laws that provide medical benefits coverage. He said he is not aware of any state that does not provide coverage for opioids.

In response to a question from Representative Amerman, Mr. Wahlin said although the WSI Executive Board and the Governor have not had an opportunity to review the bill draft, he expects the board will support this bill draft because the board supported the 2011 legislation.

In response to a question from Senator Campbell, Mr. Wahlin said his recollection is that in 2011, the bill draft failed in the second house. He said the testimony in opposition to the bill draft included the concern WSI was interjecting itself too far into the patient/doctor relationship.

Representative Sukut said he expects it would be difficult to dictate what actually takes place between a doctor and a patient; however, it is possible for the state to dictate for what WSI will pay.

Mr. Dodge said he thinks the bill draft has some merit, as it allows WSI to make sure WSI treatment protocols are followed. He said he suggests the pain management contract the injured worker signs include the terms of the law upfront so there is full disclosure and expectations are clear.

Mr. Dodge said if WSI is faced with discontinuing coverage of chronic opioid therapy treatment after a long period of coverage, WSI might want to consider coverage of detoxification treatment.

It was moved by Representative Kreun, seconded by Senator Campbell, and carried on a roll call vote that the bill draft relating to workers' compensation coverage of chronic opioid therapy treatment be approved and recommended to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Representative Kreun, seconded by Representative Sukut, and carried on a roll call vote, that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management. Senators Laffen, Campbell, and Sinner and Representatives Amerman, Kreun, and Sukut voted "aye." No negative votes were cast.

It was moved by Senator Campbell, seconded by Representative Kreun, and carried on a voice vote that the committee be adjourned sine die.

No further business appearing, Chairman Laffen adjourned the meeting sine die at 3:00 p.m.

Jennifer S. N. Clark
Counsel

ATTACH:2



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Minnesota Tackles PTSD

08.11.2013

Belated kudos to Minnesota Gov. Mark Dayton for putting his signature on HF1359/ SF1234, which adds post-traumatic stress disorder (PTSD) to the list of covered occupational diseases under workers' compensation in that state. The bill had strong support in the Legislature, passing 128-0 in the House and 38-24 in the Senate. Dayton signed it into law in May.

PTSD treatment under workers' compensation is banned in many states, although of late similar bills have been making the rounds in state legislatures. The cause began to receive significant attention nationwide in the wake of workers' compensation denials to first responders at the Sandy Hook school shooting.

Sadly, the Minnesota impetus also can be traced to a school shooting. Minnesotans refer to a 2005 tragedy, when a 16-year-old shot and killed seven people at a school on the Red Lake Indian Reservation, a poor and remote area in Northern Minnesota. He wounded five people before taking his own life when police arrived. One of the teachers at the school claimed PTSD but was denied workers' compensation coverage because it wasn't on the list of covered diseases.

The Minnesota bill adding PTSD to the coverage list received support from the Minnesota Chamber of Commerce and the AFL-CIO. Estimates of the bill's effect on workers' compensation rates range from a 0.5 percent to a 4.0 percent increase.

The proposed change explicitly notes that "Mental impairment is not considered a disease if it results from a disciplinary action work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer for mental impairments resulting from disciplinary action, job transfer, layoff, demotion, promotion, termination retirement, or similar action taken in good faith by the employer." In other words, if you get fired or disciplined for doing a lousy job at work, don't try to get workers' compensation benefits. But if you have to respond to a devastating tragedy, you probably will be covered. Sounds fair to me.

(Read more Work Comp Nation blogs [here](#).)

Commenting is not available in this channel entry.

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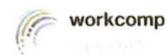
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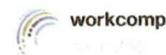


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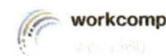
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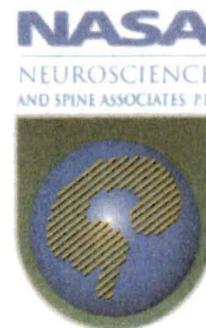
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Stress takes heavy toll on firefighters, experts say

Kirsti Marohn, USA TODAY 6:52 p.m. EST January 15, 2015



(Photo: Dave Schwarz, St. Cloud (Minn.) Times)

MELROSE, Minn. — Jerry Hartsworm was the kind of firefighter who didn't wait for the alarm.

Nine months ago, when he heard over his pager that a nearby department was responding to a barn fire, he jumped into his truck and headed to the station, knowing his department likely would be called to help.

What happened at the fire left Hartsworm changed.

He was injured, possibly by a falling beam or debris, and found himself lying face-down with flames all around him.

His physical injuries healed, but the mental scars he suffered have left him tormented and unable to work. Adding to the pain is the legal battle he has faced to get the city's insurance carrier to cover his medical expenses and lost wages.



USA TODAY

New bio: Jackie Kennedy suffered from PTSD

<http://www.usatoday.com/story/life/books/2014/12/06/jacqueline-bouvier-kennedy-onassis-the-untold-story/19884731/>

For Hartsworm, 50, who spent four years as a volunteer on the Melrose Fire Department in central Minnesota, life has become a daily struggle.

"Every one of us, when that pager goes off, we know there's a possibility that we're going to die," he said. "And we accept the fact that we could die. But what I cannot accept is the fact that I'm discarded — that I didn't get hurt the right way to be covered."

Firefighters are often thought of as heroes, bravely rushing into a dangerous situation to help others without a thought for their own safety.

But experts say they often pay a mental and emotional price. Post-traumatic stress disorder, depression, substance abuse and suicide are common problems among firefighters.

A 2014 report from the National Fallen Firefighters Foundation found that a fire department is three times more likely to experience a suicide in a given year than a line-of-duty death.

"What they're dealing with is not what the average person who works a 9-to-5 office job is going to see," said Chief Philip Stittleburg, chairman of the National Volunteer Fire Council. "We're finally coming to realize that these sorts of incidents take a toll on you."

For volunteer fire departments, which are often found in small towns and rural areas, there's a heightened chance that someone on the department will know the victim of a fire or accident, Stittleburg said.

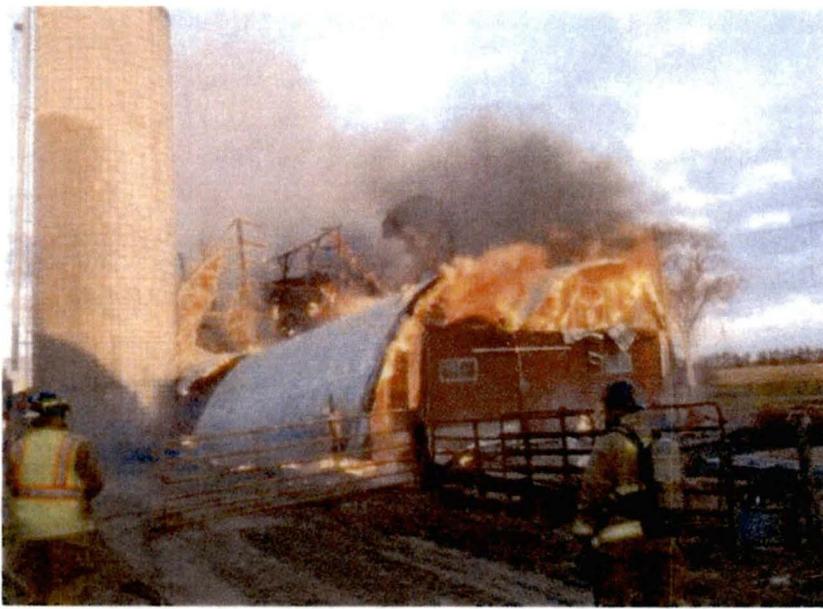
"That adds a whole additional stress level to the operation," he said.

While career firefighters generally work regularly scheduled hours, volunteers can get called anytime of the day or night. They have to juggle those duties with family and work obligations, Stittleburg said.

"It does take a toll on the family when you're opening the Christmas presents and suddenly, off you go to a call," he said.

Firefighters often don't talk about the emotions of their job because they don't want to show any weakness to their colleagues, the community or themselves, said Jeff Dill, founder of the Firefighter Behavioral Health Alliance.

They try to handle it ourselves, and unfortunately, that's where the problems come in," Dill said.



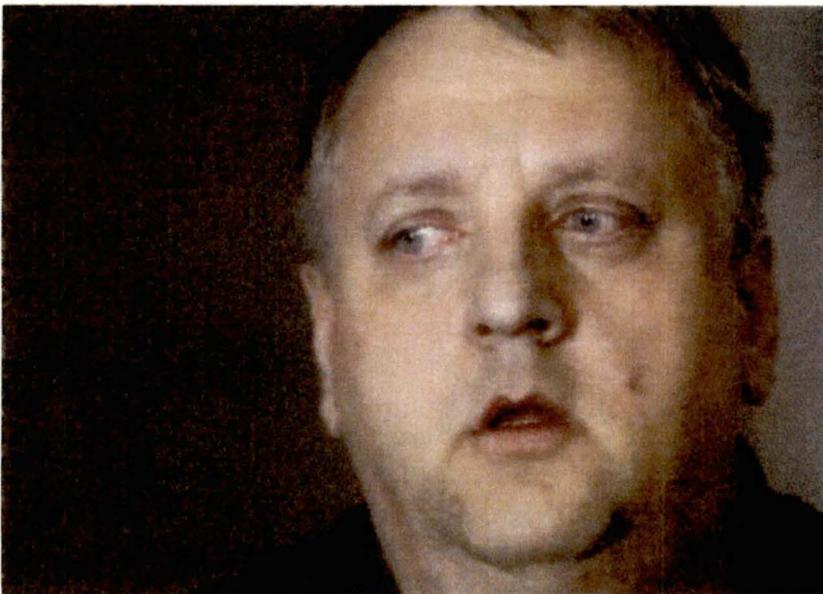
A barn fire burns in Oak Township, Minn., on May 3, 2104 . (Photo: Stearns County Sheriff's Office)

After Hartsworm was injured in the barn fire last May, he spent three days in the hospital and two more weeks recovering at home, suffering from headaches and sensitivity to light. Hartsworm's doctor sent him to a neurology clinic in the Twin Cities, where he was diagnosed with a mild traumatic brain injury.

Hartsworm began having nightmares that he was trapped, burning, with no air to breathe, watching other firefighters get killed.

He spent five weeks in a psychiatry program, where he was diagnosed with PTSD. He still struggles with depression and anxiety and hasn't been able to return to his job as a supervisor at a local food-processing plant.

"I live for my life every day," Hartsworm said. "This is as real as going into a fire every day for me."



Volunteer firefighter Jerry Hartsworm of Melrose, Minn., was injured fighting a fire last May. (Photo: Dave Schwarz, St. Cloud (Minn.) Times)

Stittleburg's organization and others are trying to reduce the stigma surrounding mental health that exist in many fire departments.

"I think there is awareness, but it is growing at a much slower rate than we would like to see," he said.

Local officials can help by making sure there are employee-assistance programs available and that managers in the fire department are trained to recognize symptoms of stress, Stittleburg said.

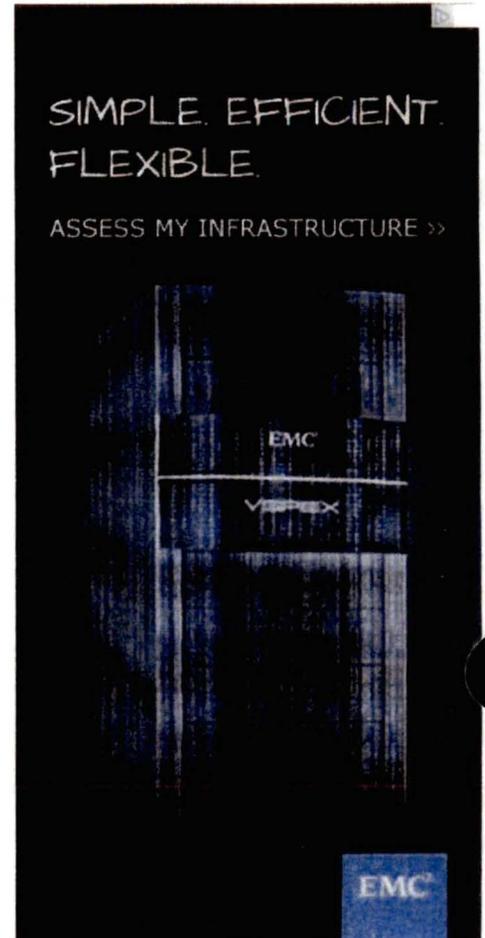
"It all boils down to changing the culture of the profession, and that in turn boils down to leadership," he said.

Dill travels around the country presenting workshops on mental health to fire departments. He said attitudes about mental health are changing.

"Fire chiefs are saying, 'We need to pay attention to this,' " Dill said. "People are starting to see the light. And that's what we need, because we're losing many of our brothers and sisters."

Marohn also reports for the St. Cloud Times

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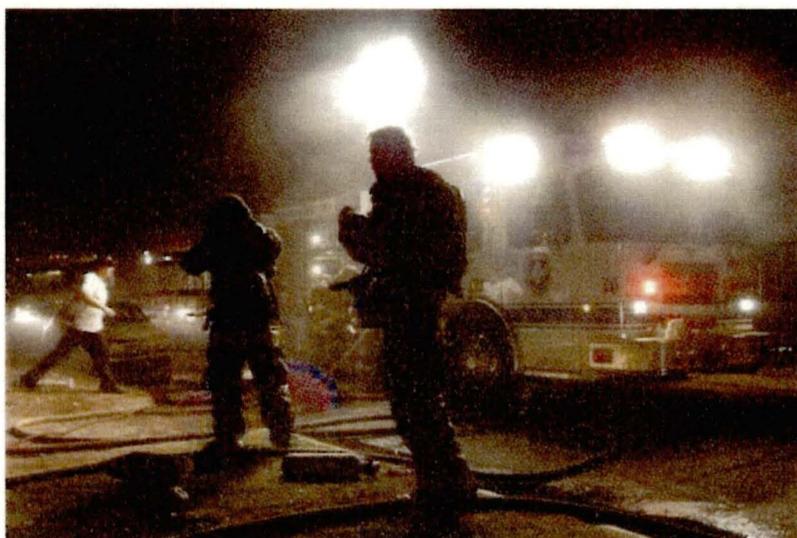
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SAFETY & HEALTH

The Impact of Post Traumatic Stress Disorder on Firefighters

BY JEFFREY PINDELSKI ON JUN 18, 2013



The pressures of today's world can lead to mental health issues in any individual. The death of a loved one, divorce and financial challenges are only some of the most obvious stressors that affect people's coping mechanisms in today's society.

Firefighters are a unique breed as they not only have to deal with the same issues as society in general, but also the fact that they are exposed to events that involve trauma, death and loss on a regular basis throughout their career. Being exposed to these events can have an effect on an individual over time and can compound significantly if they are not handled properly.

Unfortunately, fire service culture, which is built largely on the values of bravery and pride, prevents fire service members from asking for help when needed. Another significant barrier to firefighters receiving the proper treatment in these instances is that counselors provided through employee assistance and health programs often do not have an understanding of the fire service.

Occupational stress experienced by fire service members can lead to a condition known as Post Traumatic Stress Disorder (PTSD). PTSD is a mental health condition that is commonly brought on by experiencing a traumatic or terrifying event. Signs and symptoms will normally surface within three months of an incident, but can take longer. It is brought on by a combination of:

- Life experiences
- Inherited temperament or personality and mental risks, and
- The process in which the brain regulates the release of chemicals and hormones when a person is stressed.

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Research has also shown that certain factors increase the odds for developing PTSD. Most prevalent are:

- Intensity of the traumatic event
- Having experienced other traumatic events, and
- The lack of having a good support system in place.

PTSD also creates a higher risk factor for individuals developing additional mental health problems such as:

- Depression
- Substance abuse
- Eating disorders
- Suicide

In addition, PTSD has been proven to contribute to other health-related issues such as cardiovascular disease, autoimmune deficiencies, chronic pain and musculoskeletal problems.

Symptoms of PTSD

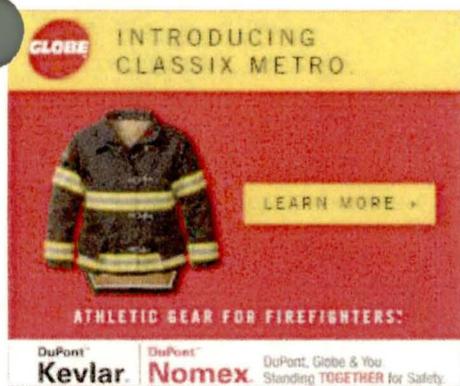
The symptoms of PTSD can be quite extensive, but will fall into one of three categories: intrusive memories, avoidance or emotional numbing and anxiety and increased emotional arousal.

Intrusive memory symptoms include reliving the traumatic event through flashbacks or nightmares.

The second group is avoidance or emotional numbing. These symptoms are exhibited when the individual consciously avoids trying to think or talk about the event, discontinues activities/hobbies that were previously enjoyed, easily forgets things, has trouble concentrating and cannot maintain a close relationship with others.

Anxiety and increased emotional arousal symptoms involve the person being highly irritable, displaying outbursts of anger or other self-destructive behavior, suffering insomnia and hearing or seeing things that are not present.

All of these symptoms of PTSD can come and go, but can be triggered by any reminders of the stressful event that the person experienced.



Creating a Support System

Knowing what firefighters go through on a continual basis leads us to realize the importance of having the right measures in place for our firefighters.

Prevention and early intervention are crucial in treating PTSD. As a chief, one of the best preventative measures is to create an organization that cares. This includes how each member treats one another, how the members treat the public, providing good training and tools, equipment and apparatus to perform our jobs and having solid systems in place when work must be performed (incident command system, operating guidelines, accountability, etc.).

Peer support systems are also be integral to prevention. Having a department chaplain or dedicated counselor can help provide guidance to members in difficult times. Whatever system is put into place, it is very important that the chaplain or counselor has a connection with the members and also possesses a basic knowledge of fire service culture. Web-based training at no cost is offered to clinicians to help them understand the fire service and how to apply interventions through a new program offered by the National Fallen Firefighters Foundation (NFFF) in support of Life Safety initiative 13.

Educating department members on behavioral health and where to turn for help is also a big component in regards to prevention and early intervention.

Actions that can be taken and should be added to the organization include implementing the components recommended in support of Life Safety Initiative 13. The NFFF introduced a new Behavior Health Model on March 1, 2013, specifically targeting how to assist firefighters. These recommendations are based on psychological research and military response to PTSD. Training on these components is free to fire service community members.

After Action Review - The first component of the new model is the *After Action Review* and is meant to take place every time firefighters perform their jobs ("Every time wheels roll..."). This concept is taken from the military. It centers on five questions:

1. What was our mission?
2. What went well?
3. What could have gone better?
4. What might we have done differently?
5. Who needs to know?

It is aimed at providing a mechanism for review while helping to put the event into perspective.

Curbside Manner – It has been demonstrated that the support given to citizens by firefighters after an event increases a person's capability to recover from that event. This program teaches basic skills to help us make people feel that they are cared for and respected. It establishes the groundwork for the *Stress First Aid* component.

Stress First Aid – *Stress First Aid* takes the principles learned in *Curbside Manner* to help fire service members care for their own in times of stress. This program was adapted from models used by the Marine Corps and U.S. Navy. It is a process that monitors the recovery of fire service personnel and identifies those in need of intervention.

Trauma Screening Questionnaire (TSQ) – A *TSQ* is included as an additional component. It is designed to be administered three to four weeks after an event takes place to determine if an individual requires additional help. It has been adapted from the PTSD scale self-report version and is considered by the medical community as a valid assessment tool for PTSD. It is based on 10 questions with experiences of two times or more in the last week; a yes answer to six of the 10 questions constitutes a person to be evaluated by a clinician for intervention. The 10 questions of the survey are:

1. Do upsetting thoughts or memories about the event come into your mind against your will?
2. Having upsetting dreams about the event?
3. Acting or feeling as though the event was happening again?
4. Feeling upset by reminders of the event?
5. Do you have bodily reactions (such as fast heartbeat, sweatiness, dizziness, stomach pains) when reminded of the event?
6. Difficulty sleeping?
7. Irritability or outbursts of anger?
8. Difficulty concentrating?
9. Heightened awareness of potential dangers to yourself and others?
10. Easily startled at something unexpected?

As previously stated, Web-based training is also available for clinicians to assist in dealing with fire service members.

In addition, the 2013 edition of NFPA 1500 should also be referenced to help in establishing a behavioral health assistance program for your department.

These services should all be added to the program for the department. The financial impact is negligible with the resources now being made available and the reward is immeasurable if we can help assist our members.

This week is the International Fire/EMS Safety week and this year's theme is: "Saving Our Own: An Inside Job." You can find more resources here.

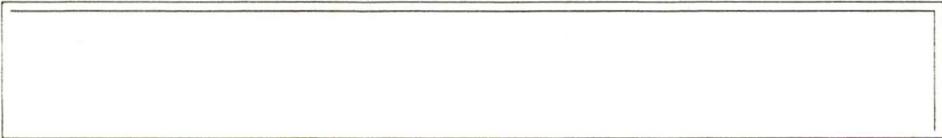
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- www.mayoclinic.com



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lynn_ogle 314 days ago

I am new to Firehouse, but not new to PTSD. Back in the early days of PTSD (1984) we were learning that there is more to the job than go to the incident and keep your mouth shut. Often the guys were told that "if you can't stand the heat, get out of the kitchen". Over the years we in fire services and law enforcement have found and lost good people when using that attitude. We called it Critical Incident Management. Keep the training going. Keep the counseling up it is absolutely necessary!

Reply

0



Andrew Cunningham 467 days ago

"significant barrier to firefighters receiving the proper treatment in these instances is that counselors provided through employee assistance and health programs often do not have an understanding of the fire service."

Another significant barrier is firefighter-peer-counselors who are quickly out of their depth with regards to mental health issues.

Reply

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2015 Senate Bill 2256
Testimony before the House Industry, Business, and Labor Committee
Presented by: Jodi Bjornson
Workforce Safety and Insurance
Date: March 4, 2015

Mr. Chairman, Members of the Committee:

My name is Jodi Bjornson, General Counsel with Workforce Safety and Insurance (WSI). On behalf of WSI, I am here to provide information on Senate Bill 2256. The WSI Board of Directors supports this bill. This bill was heard in the Senate Human Services Committee and passed the Senate 43-3.

SB 2256 is identical to House Bill 1317, heard by this Committee, and defeated in the House 35-55. It proposes new benefits for first responders who sustain posttraumatic stress disorder (PTSD) caused by an extraordinary and unusual mental stimulus during the course of employment.

Currently, N.D.C.C. section 65-01-02(10)(a) allows for the payment of claims for mental injuries when the mental injuries are caused by a compensable physical injury, the physical injury is at least 50% of the cause of the mental condition, and the mental condition did not preexist the physical injury. This standard applies to the entire work force, regardless of the profession in which the injured employee works. North Dakota law specifically excludes mental injuries arising from mental stimulus. N.D.C.C 65-01-02(10)(b)(10). These are commonly referred to as "mental-mental" claims.

The proposed legislation would carve out an exception to the "mental-mental" exclusion, and allow WSI to pay benefits for a particular kind of mental-mental claim, PTSD. In order to qualify for benefits, an injured employee must be a first responder. First responders are defined as full-time paid fire fighters; full-time paid law enforcement officers as provided in current workers compensation law; and full-time, paid emergency medical personnel as defined in Chapter 23-27, the law governing emergency medical services.

Under this bill, the first responder has the burden to prove that the condition causing the PTSD was extraordinary and unusual when compared to the normal conditions of that particular employment.

Like the current standard in place for other mental injuries, the employment event has to be at least 50% of the cause of the PTSD, and the PTSD cannot preexist the extraordinary and unusual employment event. The bill also requires diagnosis of PTSD by a licensed psychiatrist or psychologist. The diagnosis must meet established criteria in the *Diagnostic and Statistical Manual of Mental Disorders*, the standard classification of mental disorders used by mental health professionals in the United States.

Excluded from the bill are claims for PTSD arising out of personnel or human resource type matters such as disciplinary actions, terminations, or work evaluations. The benefits available to a qualifying first responder are up to twenty six weeks of disability benefits, and up to \$15,000 for all other benefits. A qualifying employee may receive both disability and "other" benefits, up to the established caps. We expect the "other" benefits category will be primarily for mental health related services and prescription drug costs.

A bill identical to this was considered by the Workers Compensation Interim Review Committee during the past interim, but was not forwarded on to Legislative Management for the Legislative Assembly's consideration. That bill was the result of recommendations from the 2014 Performance Evaluation of WSI conducted by the company Sedgwick. Sedgwick recommended that legislation of this kind be proposed.

As to the bill's application, the bill applies to injuries that occur on or after the effective date of this Act. This means both the employment event and the PTSD must occur after the effective date of this Act. Also, a sunset clause is proposed, expiring the law after July 31, 2015, if the Legislature Assembly does not affirmatively act to extend the law before it expires.

Our actuaries determined the costs this bill represents were not quantifiable. They do not anticipate a material impact on statewide premium levels, but noted that rates for the specific first responder rate classifications may increase over time as a result of the expanded coverage. However, there is not enough historical experience to derive estimates as to the extent of any rate increase.

This concludes my testimony and I would be happy to answer any questions you may have.

March 4, 2015

Chairman Keiser and members of the House Industry, Business and Labor,

My name is Dan Donlin, Chief of Police with the Bismarck Police Department. I have been in law enforcement for the past 27 years. I am testifying in support of SB 2256.

Throughout a career in law enforcement, my career was no different; officers and other emergency responders are exposed to a multitude of horrific and traumatic events. These events include seeing and dealing with victims and family members involved in graphic suicides, homicides, SIDS deaths, officer involved shootings, witnessing the murder your fellow police officers and attempted murder on you and other officers, and many other emotional and psychological traumatic events. Any one incident previously mentioned is difficult enough to deal with, but are exponentially difficult to deal with over one's career.

In 2003, I personally was involved in an incident where two armed individuals opened fire on us from their barricaded position. Three of my fellow officers were hit by the suspects' bullets, but miraculously no officers died that day. Unfortunately however, by the end of that 14-hour armed standoff, while the majority of citizens were tucked safely in their beds, I will have taken the life of one of the two suspects during another barrage of gunfire. You never "get over" having killed someone in the line of duty, but rather, you learn to live with it.

Taking a life in the line of duty is not something I ever hoped or wanted to do, no officer does. I entered the profession hoping to help people; not hurt people, but full well understood the realities of what my job could entail at any time. But, that realization does not change the fact that I, and most emergency responders are compassionate people who suffer at varying degrees emotionally and psychologically from these very traumatic events. We all have our own ways to deal with the trauma, but sometimes it results in a diagnosis of PTSD. We as law enforcement and I as an Administrator are doing the best we can to get beyond the "suck it up and tough it out" attitude and actually encourage

each other to seek professional help as necessary. We only need to look at our returning soldiers and news reports to see how PTSD has a horrific effect on people...and their families. Law enforcement suicides are at a much higher rate than the national average and much of that can be attributed to PTSD.

I have a very personal story regarding how PTSD of a loved one affected my family, but I won't go into that now, but a psychologist explained the emotional and psychological injuries someone with PTSD suffers this way, "the general public who is unaffected by PTSD can't visually see any injuries so it's no big deal; however, if they could see the emotional and psychological injuries the public would see a gaping and profusely bleeding wound and would immediately call 911 and/or get you to the hospital."

I encourage you and your committee to be that "911 lifeline" and give SB 2256 a "do pass" recommendation and show that you care about the physical, emotional and psychological welfare of those that put themselves at the forefront and crossroads of these dangerous and traumatic events for the benefit of law and order and safe communities!

Thank you and God bless your work! I will stand for any questions.



Dan Donlin

Chief of Police

Bismarck Police Department

Chairman Keiser and members of the House Industry, Business and Labor:

My name is Brad Jerome. I am writing on behalf of SB 2256. I would strongly encourage your support on this bill as it is intended to amend North Dakota Century Code relating to Worker's Compensation Coverage of First Responders for Posttraumatic Stress Disorder. As a North Dakota Resident and First Responder, I hold this intended legislation near and dear to me.

I am a lifelong North Dakota resident and a current North Dakota P.O.S.T. Certified Law Enforcement Officer. Throughout the course of my duties as a Law Enforcement Officer, I have had many experiences which have left a permanent scar on me. These scars are not visible to any human eye because they are internal scars which have had a profound impact on me as well as a number of Law Enforcement Officers and First Responders across the State of North Dakota.

On August 19, 2005, while serving as a Law Enforcement Officer in Northeastern North Dakota, I was called back to duty on a day off after learning my Chief of Police had been shot. In this incident many area First Responders and Law Enforcement Officers were involved in a shootout which included the burning of a County Courthouse. This incident was witnessed by several of my very close friends. Three of these friends were so directly involved in the incident that their careers came to an end. One by choice, one due to injuries, and the other struggled on with his career until he was terminated approximately a year and a half later. I was not directly affected internally by this incident but saw firsthand the carnage this incident had left.

In December 2006, I responded to a fatality crash days before Christmas. I was assigned to contact the family of the deceased party. After telling the male's mother her son's life had been taken as a result of the crash, the scream I heard still resonates with me. Having to console a mother who just lost her son was a very painful experience that I wish on no one. Especially being the one who had to inform the family that this tragic event occurred.

On July 8th, 2011, I responded to the scene of a Domestic Violence Incident where a female reported her boyfriend had held a knife to her. Sgt. Steven Kenner located the subject inside a van and began issuing commands for the subject to show his hands from the outside passenger side of the van. I went to the outside driver's side of the van and also began yelling at the male to show his hands. This male looked directly at me from inside the van, looked directly at Sgt. Kenner, back at me, and then back to Sgt. Kenner. At this time I heard a loud bang and saw a flash. This flash lit up the interior of the van enough for me to see the subject had fired a shot in the direction of Sgt. Kenner. I fired four rounds inside the van in an attempt to neutralize the threat, and give Sgt. Kenner and I time to take cover and re-engage.

I took cover in the direct front of the van. While waiting for the events to unfold, I looked over and saw Sgt. Kenner lying on the ground struggling to catch his breath. While struggling to catch his breath I saw him start gurgling blood from his mouth very profusely. While waiting for the events to unfold, I watched Sgt. Kenner take his last breaths. Not knowing whether or not I had subdued the

subject, I had no choice but to maintain my position and watch Sgt. Kenner take his dying breaths due to not knowing whether the subject was still an active threat. I later learned that I was successful in incapacitating the subject in the incident having shot the subject in the head. Sgt. Kenner was a very instrumental figure in my Law Enforcement career. One I looked up to as a father-type figure. His death was very impactful to me.

Following this incident I was placed on standard Administrative Leave and told to "Talk to nobody" about this incident. While on leave I read blogs saying I needed to "go back to the range". I would also hear my wife's cousin tell me not knowing I was the one who shot the subject tell me "You'd think they could have killed that guy". These moments really hurt and caused me to develop a negative attitude. Following this incident I was awarded several commendations to include my agency's highest honor, and a Bravery Award issued by the North Dakota Peace Officers Association. These awards and commendations do not heal the pain caused by the incidents that had unfolded.

On March 16th, 2012, 9-months following the shooting of Sgt. Kenner, I was back on duty. The Kenner shooting had not yet been resolved in a court of law, so I am still being advised not to talk about it until it had been settled in court. On this evening I was present for another shooting incident. A knife wielding male had made threats to stab his girlfriend with her young daughter present. When officers confronted the male he began coming towards officers with his knife drawn. The male was shot during this incident after he kept approaching us. Approximately one month prior to this March 2012 shooting, I was the first responding officer to a homicide scene where an elderly woman had been beaten to death by her own son.

Following these incidents, I really began to feel an internal hurt that would not go away. I developed a very negative attitude towards work, the public, and even myself. I kept telling myself this would pass and I would get back to normal. This never happened. I began a downhill slide which prompted my employers to request I seek counseling for the effects of several traumatic incidents experienced during my Law Enforcement career. I was placed on Administrative Leave in an attempt to get myself back on track. These experiences were extraordinary and unusual. Prior to my involvement in these shootings there had only been a small number of shootings in the nine and a half years I had been employed as a Law Enforcement Officer. I was personally involved in 2, but affected by three.

I was sent to counseling. While undergoing counseling, I was diagnosed with Posttraumatic Stress Disorder. I continued to seek counseling. While counseling, I requested a Worker's Comp claim and was denied. I spoke to a female representative of Workforce Safety following my denial asking why I was denied. I was told that part of my job duties may require me to shoot someone. I asked if part of my job duties required me to watch a co-worker take his last breath. I was then told "I don't really feel comfortable talking about that", I requested an appeal.

I spoke to my Attorney Michael Geiermann looking for help with this. I was referred to Grand Forks Attorney Mac Schneider, who is also a North Dakota State Legislator. Attorney Schneider informed me due to the way the Worker's Compensation laws were written, that I would be unable to be awarded Worker's Compensation regarding the incident as I had not been physically injured.

I still continue to seek counseling even after I went through the counseling requested by my employing agency. This counseling allows me to act as a functioning, productive Law Enforcement Officer. These personal experiences are very extraordinary and unusual. I relate the non-visible injuries to a broken pane of glass. Once the glass has been broken, it will never be mended to its original form. It may be pieced to look somewhat like it once had, but will never be the same as It once was.

My personal experiences are unique to where not many First Responders have had these types of experiences in such a small amount of time. It is my hope this legislation passes so that other First Responders can have peace of mind knowing that their struggles and sacrifices sustained in the line of duty are treated effectively. I strongly encourage your support to this supportive legislation to not only Law Enforcement, but to ALL First Responders. Thank You for your time and interest in this very important matter.

Respectfully,

Brad Allan Jerome

Testimony of Jon Godfread
Greater North Dakota Chamber of Commerce

SB 2256
March 4th, 2015

Mr. Chairman and members of the committee, my name is Jon Godfread. I am the Vice President of Government Affairs at the Greater North Dakota Chamber, the champions for business in North Dakota. GNDC is working on behalf of our more than 1,100 members, to build the strongest business environment in North Dakota. GNDC also represents the National Association of Manufacturers and works closely with the U.S. Chamber of Commerce. As a group we oppose SB 2256.

It is difficult for us to oppose this bill considering the circumstances that have generated this response. We are sympathetic to those individuals involved and think the bill sponsor did a reasonable job in trying to draft a law that gives a benefit while trying to limit the fund's liability. However, we believe that this initial move to compensation for mental injuries or PTSD is a lawyer's dream and this step will lead to a never ending list of expansions.

Questions of mental injury and the degree of the injury will always be highly subjective and ripe for fraud and should be avoided for that reason. The current policy that they are not part of WSI benefits should be upheld and this bill should be rejected.

Thank you for allowing me to testify, we would support a DO NOT PASS recommendation on SB 2256. I would now be happy to attempt to answer any questions.