



*BEFORE THE HOUSE INSURANCE COMMITTEE
OPPONENT TESTIMONY ON HOUSE BILL 308*

Chairman Brinkman, Vice Chair Antani, Ranking Member Boggs, and members of the House Insurance Committee, thank you for the opportunity to provide testimony on House Bill 308 (HB 308). My name is Kevin Shimp and I am the Director of Labor and Legal Affairs for the Ohio Chamber of Commerce.

The Ohio Chamber is the state's leading business advocate, and we represent over 8,000 companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

In our efforts to champion economic competitiveness, the Ohio Chamber opposes HB 308 because it upends over one hundred years of workers' compensation law by removing the requirement of a physical injury before a claim is compensable.

Ohio law since the creation of the state's workers' compensation system in 1912 has always required an employee to have a physical harm or injury in order to participate in workers' compensation benefits. The so-called "mental-mental" claim – a psychological condition that arises solely from stress – has never been compensated in Ohio. This exclusion was originally a part of the judge-made, common law. Then, in 1986 the General Assembly made this "mental-mental" exclusion a part of the Revised Code at Section 4123.01(C)(1). In 2006, in response to an Ohio Supreme Court decision expanding the scope of stress related-claims that could be compensated, the General Assembly amended that section and re-emphasized that in order for a mental or psychological condition to be compensated, the condition must arise out of a physical injury to the injured worker.

These previous legislative changes reinforce that the design of Ohio's workers' compensation system is to compensate physical injuries and only those mental conditions arising directly from such physical injuries.

The Ohio Chamber of Commerce agrees with that proposition and believes the physical injury requirement is the foundation of Ohio's workers' compensation system.

HB 308 would disregard this foundational element of our workers' compensation system by allowing for coverage of a certain mental diagnosis, Post Traumatic Stress Disorder (PTSD), for certain classes of employees, peace officers, firefighters, and EMTs, without the requirement of a physical injury.

In addition to allowing a purely mental claim into Ohio's workers' compensation system for the first time, HB 308 fails to include any guardrails that would help assure the injury arose out of and during the

course of an individuals' employment. The lack of guardrails is concerning to the Ohio Chamber because states that have addressed the issue of compensating mental conditions included significant guardrails.

For example, states like Arizona and Illinois do not compensate a mental illness that results from cumulative mental stressors that someone may face over time. Others attempt to identify the type of event that can give rise to the allowance of the claim. Illinois describes the event as a sudden, severe emotional shock. Massachusetts requires there to be identifiable stress related events. Illinois also requires there to be an immediately identifiable psychic injury. Likewise, other states mandate the quality of evidence that must be offered before such a claim may be allowed. The bill before you today does not contain any such safeguards.

The enactment of HB 308 would also come at a significant cost to employers of first responders. Without any limitations on PTSD coverage for peace officers, firefighters, and EMT workers, the Bureau of Workers' Compensation estimated the cost of providing coverage at \$70 million dollars per year. That price tag was established by the Bureau based upon an actuarial analysis of the coverage provided by House Bill 80 – the BWC budget bill for FY20 and FY21 – which is the same coverage included in HB 308.

In conclusion, we urge this committee to reject the approach proposed by HB 308 because the state's workers' compensation system is not designed to compensate purely mental injuries. Instead, we believe a broader conversation about where PTSD arising in the course of employment is most effectively and appropriately financed – private health insurance, private disability insurance, or a completely different model – should continue to take place.

Thank you for the opportunity to provide testimony today and I will be happy to answer any questions the committee may have.