

Dear Representative/Senator,

The North Carolina School Boards Association (NCSBA) appreciates the efforts of all North Carolinians who have stepped up in a variety of ways during the COVID-19 crisis. In light of this pandemic, we applaud the State Board of Education's Emergency Leave Policy which allows districts to continue to pay and provide benefits to eligible staff who cannot work remotely, who have child-care or elder-care needs, and are at high risk of COVID-19. The Workers Compensation Act (G.S. 97-53 (13)) provides a fair opportunity for a school employee diagnosed with COVID-19 (or future pandemic disease) to make a claim for benefits. The existing Act states that diseases shall be deemed to be an occupational disease "which is proven to be due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation or employment..." Meaning, the employee just has to prove that it's more likely than not likely that COVID-19 was contracted at work.

We'd like to bring to your attention HB1057 - WC/COVID-19 Front Line Coverage/Funds – filed on May 1, 2020, which shifts the burden of proof to the employer in workers compensation cases involving COVID-19 (and future pandemic diseases) and almost guarantees that every claim will be compensable. As you well know, school districts have no way to generate revenue to either pay for these additional claims or increased premiums, if they're even able to obtain coverage. HB1057 states that a "pandemic infection contracted by a covered person shall be presumed to be due to exposure in the course of the covered person's employment." Among the definitions of a covered person is "an employee required to work during a pandemic for a business declared essential by executive order of the Governor..." Governor Cooper's Executive Order No. 121, dated March 27, declares public K-12 schools an essential business for purposes of facilitating remote learning. HB1057 raises a host of issues and concerns including, but not limited to:

- Are all school employees who are required to work during the pandemic covered, even if they are working from home? What about an employee who goes to an otherwise empty office to perform an IT function?
- If a pandemic declaration remains after the Governor reopens the economy (State), does the Governor's Executive Order declaring a business "essential" remain in effect?
- If the normal standard for Occupational Diseases is used, then claims could be filed dozens of years in the future, like current asbestosis litigations.

COVID-19 is unlike the other specifically listed diseases under the Workers Compensation Act. Typically, claims involving asbestosis or miner's nystagmus and others arise from exposure at work. However, a person who contracts a highly contagious disease such as COVID-19 (or future pandemic infection) could contract it from a family member, a neighbor, or from someone at the grocery store. Therefore, we don't agree that "it shall be presumed" that a school employee was exposed to a pandemic infection at work and that "the presumption may **only** be rebutted by

clear and convincing evidence,” which is essentially an impossible bar to overcome. For these reasons and others NCSBA does not support this legislation as its currently written.

Please let us know if you have questions or would like to discuss this further.

Respectfully,

Bruce

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