



*BEFORE THE HOUSE FINANCE COMMITTEE
INTERESTED PARTY TESTIMONY ON HOUSE BILL 80*

Chairman Oelslager, Vice Chair Scherer, Ranking Member Cera, and members of the House Finance Committee, thank you for the opportunity to provide testimony on Substitute House Bill 80 (HB 80). 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 one of the state's leading business advocates, 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 using the BWC budget bill to change the ground rules for compensating a particular form of mental condition, Post-Traumatic Stress Disorder or PTSD, under Ohio's workers' compensation law.

Ohio law has always required that an employee 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 that arise directly from such physical injuries. This committee has before it a substitute bill that proposes a significant change in the law by doing away with the requirement of a physical harm prior to compensating a particular form of mental disability, PTSD, sustained by a specific classification of employees.

The Ohio Chamber believes that such a significant change in the law with the potential to greatly expand the number of workers' compensation claims should only be made after further consideration and is best suited for stand-alone legislation. Further, we do not know the impact that this change might have on the retirement or pension funds of our uniformed officers. Likewise, we do not know the impact that this might have on public sector employers and whether the cost might compromise their ability to provide services to the public. Moreover, there could be an inconsistent application of this change in

the law because a PTSD diagnosis is not as clear other diagnoses since mental disabilities are more subjective than physical injuries.

The Ohio Chamber is also concerned about the scope of the substitute bill's allowance for PTSD claims because the substitute bill contains no guardrails that assure an individual's PTSD is work related. In preparing to appear before the Committee today, a member of the Ohio Chamber's Workers' Compensation Committee took a look at how other states have addressed the issue of compensating mental conditions that arise from circumstances other than a physical harm. He saw little uniformity among the states but found that many states put significant guardrails in place. Some states, such as Georgia, Florida and Kansas have adopted the approach that Ohio currently utilizes and only compensates for mental injuries when they arise directly from a physical harm. Other states allow the so-called "mental-mental" injuries but with provisions to ensure that the impairment is work-related. For example, states such as 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. Others mandate the quality of evidence that must be offered before such a claim may be allowed. The substitute bill before you does not contain any such safeguards.

In conclusion, the Ohio Chamber opposes using the BWC budget bill to make changes to PTSD coverage because we believe such a fundamental change to Ohio's workers' compensation system requires standalone legislation. Additionally, we believe Ohio's workers' compensation system is only designed to cover mental conditions arising from a physical harm and that the substitute bill lacks sufficient guardrails to assure that an individual's PTSD is work related.

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