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SAN BERNARDINO SCHOOL VIOLENCE TRAGICALLY SUPPORTS THE NEED FOR WORK COMP SYSTEM CHANGES IN ASSEMBLY BILL 44

BY: SCOTT A. O'MARA

As most readers are aware, carnage tragically occurred once again in the County of San Bernardino on 4/10/17, when a man entered an elementary school and shot and killed a teacher — his 53-year-old wife — and an 8-year-old student. This horrendous act obviously has impacted (and will continue to impact) many school district employees, as well as the first responders who came onto the scene.

Prior to this overwhelming and troubling event, the failure of the Workers' Compensation system brought to light by the prior shooting of County of San Bernardino employees on 12/2/15 mandated the legislative changes proposed in Assembly Bill 44 by Assemblywoman Eloise Reyes — a bill which correctly identified the continuing failure of our current Work Comp system. In her proposed legislation, Assemblywoman Reyes offers changes to deal with the harm which occurs to on-site employees and first responders who sustain either physical or psychological injuries as a result of terrorism or violence in the workplace.

The current system has in place many barriers which deny adequate medical care to cure or relieve the effects of work-related injuries, despite the fact that such care is mandated by the California Constitution. These barriers take the form of two systems — Utilization Review (UR) and Independent Medical Review (IMR) — both of which are designed to keep costs down for employers.

If you go to Law1199.com and review the 2017 Issue #4 newsletter, you will find a detailed explanation of the failure of the current Workers' Compensation system and the absolute necessity for change.

The proposed legislation, Assembly Bill 44, introduced by Assemblywoman Reyes (and co-authored by Assembly Members Aguilar-Curry, Chu, Cooley, Gipson, Holden, Kaira, Limon, Medina, Rodriguez, Rubio, Mark Stone and Voepel, as well as Senator Leyva), addresses and eliminates the UR and IMR barriers to receiving medical care by specifically stating that the denial of medical care or access to same would be resolved by a Workers' Compensation Judge through an expedited process. This would allow the worker to present real evidence, real medical opinions and real facts to a known person, a judge, and allow the worker an avenue to appeal an unfavorable decision through the Workers' Compensation Appeals Board, Court of Appeal and the California Supreme Court, all of which are avenues presently unavailable to injured workers trapped in the UR/IMR system. These changes would provide an expeditious and meaningful way for workers and first responders who suffer physical and/or psychological injuries as a result of terrorism or workplace violence to obtain the medical care they need.

AB 44 defines an “act of terrorism” as “the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives”. “Violence in the workplace” is defined as “an assault against a person with a firearm or other dangerous weapon that results in serious bodily harm or psychological injury”.

In addition to providing much-needed medical care within a reasonable time-frame, AB 44, by recognizing the current failure of the UR/IMR system, will allow real medical care and help. AB 44 also deals with the limitations placed on injuries occurring after 1/1/08 that artificially define the maximum period of time (currently two years) that temporary disability payments can be made within five years from the date of injury.

Presently, injured workers who sustain acute and chronic hepatitis B or C, amputations, severe burns, HIV, high-velocity eye injuries, chemical burns to the eyes, pulmonary fibrosis or chronic lung disease can receive temporary disability payments for up to 240 weeks within five years from the date of injury. AB 44 adds employees and first responders who sustain physical or psychological injuries arising from an act of terrorism or violence in the workplace to the list of those who qualify for 240 weeks of temporary disability payments

Assembly Bill 44 is meaningful and necessary, and will allow quicker recovery for the employees and first responders it protects. It also would result in less residual disability for these workers, thereby allowing them to remain in the workplace.

Unfortunately, as the most recent County of San Bernardino events reflect, violence sometimes does occur in the workplace. *Therefore, support and backing for AB 44 is appropriate and essential to protect employees and first responders.*



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NOTICE: *Making a false or fraudulent Workers’ Compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.*

