

Testimony in Opposition to LD 575  
*An Act to Establish a Conditional Presumption of Compensability for Certain Employees in Cases of Impairment from Hypertension or Heart Disease*

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Presented by Elizabeth Brogan

Senator Rafferty, Representative Sylvester and members of the Joint Committee on Labor and Housing, my name is Elizabeth Brogan and I am the Executive Director of the Workers' Compensation Coordinating Council and Maine Council of Self-Insurers. I appear before you today in opposition to LD 575.

Injuries should be presumed to have arisen out of and in the course of employment (basically, at work and because of work) only where the factual circumstances are so compelling that the only rational inference can be that the injury is work-related. Most obviously, when an employee is killed or unable to testify, a rebuttable presumption makes sense, and has long been included in the Maine Workers' Compensation Act.

Presumptions should be rare because they are essentially a thumb on the scales, favoring one party over another, forcing the employer to *disprove* the presumed facts. Where there is no presumption, claims by correctional workers and claims by *all other groups of workers, for all types of injuries*, are decided based on the individual merits of the case with a level playing field. The Workers' Compensation Act should ideally provide a fair system for *all* of Maine's workers and employers, not a patchwork quilt of different standards, depending on the type of work performed, with some groups of employees favored and not others. (Understandably, this seems to lead to a proliferation of presumption bills.)

Heart disease and hypertension are diseases that are widespread, progressive in nature and caused by any number of non-work factors, including diet, lack of exercise, smoking, drinking, genetics and age. [https://www.cdc.gov/heartdisease/risk\\_factors.htm](https://www.cdc.gov/heartdisease/risk_factors.htm) Heart disease has long been the leading cause of death in the United States, only this year overtaken by Covid-19.

An expansion of the presumptions in our Workers' Compensation Act to include corrections employees (presumably anyone working any type of job at a correctional facility) with heart disease or hypertension should be backed up with strong and unbiased scientific data. To date, we've seen no such data.

Finally, unlike most provisions of the Workers' Compensation Act, presumptions generally favor public employees, rather than all workers across the board. The resulting costs are borne primarily by public employers—our state, counties and municipalities—potentially impacting all the various services they provide.

For these reasons, we urge the committee to vote "ought not to pass" on LD 575. I am happy to answer any questions.